

Patch II

99-2110df_pt1of2



kelso



traderc



1999 DRAFTING REQUEST

Bill

Received: **02/3/99**

Received By: **traderc**

Wantcd: **Soon**

Identical to LRB:

For: **Carol Kelso (608) 266-0485**

By/Representing: **Pam Shannon**

This file may be shown to any legislator: **NO**

Drafter: **traderc**

May Contact:

Alt. Drafters: **hubliks**

Subject: **Environment - env. cleanup**

Extra Copies: **Kendra Bonderud, LFB
Don Bezruki, Audit Bureau**

Pre Topic:

No specific pre topic given

Topic:

Changes in PECFA program, including recommendations from audit

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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ch 3-8
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By/Representing: Pam Shannon

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May Contact:

Alt. Drafters: hubliks

Subject: Environment - env. cleanup

Extra Copies:

Pre Topic:

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May Contact:

Alt. Drafters: **hubliks**

Subject: **Environment - env. cleanup**

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Wanted: Soon

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For: Legislative Council - IND

By/Representing: Pam Shannon

This file may be shown to any legislator: NO

Drafter: traderc

May Contact: Capital Finance, Bond Counsel,
ONR, Commerce

Alt. Drafters: hubliks

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See Attached

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2-2-99

Hi Becky-

Attached are the PECFA drafting instructions I called you about yesterday, as well as a copy of the Audit Report. Please give me a call when you've had a chance to take a look at this to let me know if we need to talk about it before you start drafting.

Thanks very much for your assistance on this. Good luck on the budget bill.



Pam Shannon
6-2680

Attachments



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536

Telephone: (608) 266-1304

Fax: (608) 266-3830

Email: leg.council@legis.state.wi.us

DATE: February 2, 1999
TO: Becky Tradewell, Managing Attorney
FROM: Pam Shannon, Senior Staff Attorney *6-2680*
SUBJECT: PECFA Bill Draft

The Joint Legislative Audit Committee has directed me, in consultation with the Audit Bureau and the Fiscal Bureau, to give you drafting instructions for a bill which is to be based primarily on the recommendations regarding the PECFA program contained in Legislative Audit Bureau Report 98-14, *Petroleum Environmental Cleanup Fund*, a copy of which is attached to this memorandum. At the Committee's request, the bill will also contain two additional items, discussed in item B., below, which are not included in the Audit Bureau's recommendations.

The bill is to be drafted for the Audit cochairs, Senator Gary George and Representative Carol Kelso. I will be checking with them to see if they want companion bills or how they want to handle the primary authorship. The cochairs have indicated that they would like to have the bill prepared as quickly as possible, in order to schedule a timely hearing on it. However, it might be useful to prepare a preliminary draft first, in order to raise questions or issues the cochairs may wish to address prior to introduction and referral.

A. ITEMS ADDRESSED IN THE AUDIT REPORT

Note that where there are specific underscored recommendations in the Audit Report, or where there are no underscored recommendations but the Audit Report nevertheless addresses a particular issue, the relevant page numbers are cited. Also, some of the Report's recommendations are directed to just one agency; however, in some cases, a decision has been made to direct the recommendation to the other agency as well.

✓ **1. Risk-Based Assessment of Sites [addressed without underscored recommendations at pp. 5, 9 and 27-30, Audit Report]**

The bill would direct DNR and Commerce to use a risk-based analysis for all PECFA sites to determine the degree of risk posed to public health, safety, welfare or the environment by a particular site.

✓ **2. Natural Attenuation [addressed without underscored recommendations at pp. 6, 14-15 and 27-29, Audit Report]**

The bill would also direct DNR and Commerce to require the use of natural attenuation as a remedial action, to the maximum extent possible, consistent with the groundwater law. No change would be made in either the groundwater law or the hazardous spills law. You could use the definition of "natural attenuation" in SEC. 4 of 1997 A.B. 861.

✓ **3. Cost-Effectiveness of Cleanup Measures [pp.37-38, Audit Report]**

→ The bill would direct DNR and Commerce, after first conducting the risk-based analysis described in item 1., above, to determine the least costly solution that addresses the risk and that meets but does not exceed the groundwater law. Staff from both agencies would be required to jointly review all proposed remedial action plans for high-priority cases to determine whether the options proposed include the most cost-effective methods of reaching the cleanup goals, rather than reviewing consultants' decisions and actions only after cleanup is complete. The two agencies would be required to inform site owners that the PECFA program will only pay for the least costly cleanup method that addresses the risk and meets but does not exceed the groundwater law.

✓ **4. Prioritization [addressed without underscored recommendations at pp. 4 and 27-29, Audit Report]**

The bill would provide that as a condition of reimbursement from the PECFA program for remedial action, site owners must receive approval from DNR and Commerce to begin remedial action. DNR and Commerce would be required to authorize commencement of remedial action eligible for reimbursement subject to the availability of funds and the relative priority of the site based on the risk posed by the petroleum contamination at the site, as determined by the risk-based assessment conducted under item 1., above.

This is not intended to preclude an owner from incurring costs in the site investigation stage, only from incurring costs of remedial action. Also, it is not intended to apply to site owners who have a cleanup in progress and have already incurred remedial costs. Perhaps this provision would need initial applicability language.

5. Promulgation of Emergency Rule

The bill would require Commerce and DNR to promulgate an emergency PECFA rule, within 30 days of the effective date of the bill, which must include the following provisions (which should be delineated in the statute):

√ a. Commerce and DNR would be required to develop active evaluation procedures of site cleanup activity to ensure that sites are closed promptly. This would include: (1) conducting an annual review of the cleanup status of all PECFA sites to ensure that remedial actions are consistent with the risk assessment and natural attenuation requirements in items 1. and 2., above; and (2) requiring consultants to report an estimate of time and future costs to bring the site into compliance with numeric enforcement standards, as well as a separate estimate of the time and future costs of bringing the site into compliance with the more stringent preventive action limits. [p. 39, Audit Report]

b. Commerce and DNR would be required to develop detailed uniform guidelines stating the conditions for which staff should apply each closure option, as well as management procedures and training to collect and review staff decisions to ensure that decisions are made in a consistent manner throughout the state. [p. 41, Audit Report]

√ c. Commerce and DNR would be required to develop standard reporting formats, file content requirements and file review procedures to be used by all consultants and agency field staff, for more effective and cost-efficient oversight by agency staff. [p.41, Audit Report] In addition, consultants would be required to provide the agencies, at specified intervals, with a summary of costs incurred to date on a particular project for which claims have not yet been, but are intended to be, submitted.

√ d. Commerce's plan to develop cost guidelines must include guidelines for all costs commonly associated with PECFA cleanup and must establish data collection and analysis methods that allow guidelines to be revised as appropriate to accommodate market changes. The guidelines must include level-of-service guidelines for common tasks and maximum hourly rates for various skill levels, as well as time limitations and maximum unit costs for specific tasks. They must allow Commerce flexibility to deviate from the guidelines under special circumstances in order to meet cleanup objectives. [p. 50, Audit Report]

6. Database Updates

The bill would require Commerce to: (a) update its database to ensure that complete cost information related to an individual site and each owner's annual spending cap is readily available; (b) investigate any variances between total payments in the financial management database and expenditures recorded in the state's accounting system to identify when such variances occurred and the reasons for the variance; and (c) ensure that the financial management database reconciles with the state's accounting system. [p. 52, Audit Report]

7. Annual Report

The bill would require Commerce and DNR to jointly prepare and submit to the chief clerk of each house of the legislature, for distribution to appropriate standing committees and to the Joint Legislative Audit Committee and the Joint Committee on Finance, an annual report by October 1 for the previous fiscal year which includes information on the following items:

- a. The number of sites closed and the number of sites newly opened.
- b. The percentage of sites managed by DNR and the percentage of sites managed by Commerce.
- c. The name of each firm providing engineering consultant services and the number of sites for which each firm has provided those services.
- d. The charges for engineering consultant services for active and closed sites.
- e. The charges by commodity providers for the most significant commodity services, such as excavating, hauling, laboratory testing and landfill disposal.
- f. Strategies for tracking and monitoring complaints of fraud filed by consultants, owners and other interested parties and use of agency audit staff to help identify questionable claims and investigate complaints. [pp. 53 and 55, Audit Report]

B. ADDITIONAL ITEMS TO BE INCLUDED IN BILL

1. Bonding Authority

The bill should include all of the PECFA revenue bonding language contained in 1997 Assembly Bill 681, including the \$400,000,000 total bonding limit. Note that the citation in the treatment clause to SEC. 1 of the bill should read: s. 20.143 (3) (s), not (3) (5). It was correct in ASA 1 to the bill.

2. Deductible Paid by Site Owner

The bill should amend the current deductibles in the PECFA law as follows:

- a. For home heating oil tanks: ___ % of eligible costs, with a maximum award of \$_____.
- b. For aboveground tanks: \$_____ per occurrence with a maximum award of \$_____.
- c. For underground tanks, \$_____ plus ___% of eligible costs, but not more than \$_____ per occurrence, with a maximum award of \$_____ or \$_____ per occurrence.

These should be left blank in the preliminary draft.

Please feel free to call me to discuss these instructions. Mark Patronsky and Ron Sklansky from our office, Don Bezruki from the Audit Bureau and Kendra Bonderud from the Fiscal Bureau are all participating in discussions on this bill, and you should feel free to contact any of them with questions as well. Thanks very much for your help on this request.

PS:wu

Attachment



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2110/P1

RCT:.....

cmH

Monday, if possible

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

DNote

gen cat.

1 AN ACT ...; relating to: the petroleum storage remedial action program and
2 granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 101.143 (1) (bm) of the statutes is created to read:

4 101.143 (1) (bm) "Enforcement standard" has the meaning given in s. 160.01
5 (2).

6 SECTION 2. 101.143 (1) (cq) of the statutes is created to read:

7 101.143 (1) (cq) "Natural attenuation" means the reduction in the
8 concentration and mass of a substance, and the products into which the substance
9 breaks down, due to naturally occurring physical, chemical and biological processes.

10 SECTION 3. 101.143 (2) (h) of the statutes is created to read:

1 101.143 (2) (h) The department of commerce, in consultation with the
2 department of natural resources, shall promulgate rules designed to facilitate
3 effective and cost-efficient administration of the program under this section that
4 specify all of the following:

5 1. Information that must be submitted under this section, including periodic
6 summaries of costs incurred with respect to a discharge for which a claim is intended
7 to be submitted under sub. (3) but for which a final claim has not been submitted.

8 2. Formats for submitting the information under subd. 1.

9 3. Review procedures that must be followed by employees of the department of
10 natural resources and the department of commerce in reviewing the information
11 under subd. 1.

12 SECTION 4. 101.143 (2) (i) of the statutes is created to read:

13 101.143 (2) (i) The department of commerce, in consultation with the
14 department of natural resources, shall promulgate rules specifying procedures for
15 evaluating remedial actions under sub. (3) (c) 3. to be used by employees of the
16 department of commerce and the department of natural resources while remedial
17 actions are being conducted. The department of commerce shall specify procedures
18 that include annual reviews of ongoing remedial actions and annual reports by
19 consultants estimating the additional costs that must be incurred to comply with
20 sub. (3) (c) 3. and with enforcement standards.

21 SECTION 5. 101.143 (2) (j) of the statutes is created to read:

22 101.143 (2) (j) The department of commerce, in consultation with the
23 department of natural resources, shall promulgate rules specifying all of the
24 following:

1 1. The conditions under which employes of the department of commerce and
2 the department of natural resources must issue approvals under sub. (3) (c) 4.

3 2. Training and management procedures to ensure that employes comply with
4 the requirements under subd. 1.

5 **SECTION 6.** 101.143 (2e) of the statutes is created to read:

6 101.143 (2e) RISK-BASED ANALYSIS. (a) The department of commerce, in
7 consultation with the department of natural resources, shall promulgate rules
8 specifying a method for determining the risk to public health, safety and welfare and
9 to the environment posed by discharges for which the department of commerce
10 receives notification under sub. (3) (a) 3.

11 (b) The department of natural resources or, if the discharge is covered under
12 s. 101.144 (2) (b), the department of commerce shall apply the method under par. (a)
13 to determine the risk posed by a discharge for which the department of commerce
14 receives notification under sub. (3) (a) 3.

15 **SECTION 7.** 101.143 (3) (c) 2. of the statutes is amended to read:

16 101.143 (3) (c) 2. Prepare a remedial action plan that identifies specific
17 remedial action activities proposed to be conducted under subd. 3. and submit the
18 remedial action plan to the department.

19 **SECTION 8.** 101.143 (3) (cg) of the statutes is created to read:

20 101.143 (3) (cg) *Approval to begin remedial action.* 1. Except as provided in
21 subds. 2. and 3., an owner or operator may not begin remedial action under par. (c)
22 3. with respect to a discharge without the approval of the department of commerce
23 and the department of natural resources. The department of commerce and the
24 department of natural resources shall jointly determine when it is appropriate to
25 begin remedial action with respect to a discharge based on the determination of risk

1 under sub. (2e) (b) for the discharge and the availability of funds to pay awards under
2 sub. (4).

3 2. Subdivision 1. does not apply if the discharge is from a home oil tank system,
4 a petroleum product storage system that is described in sub. (4) (ei) 1. or a petroleum
5 product storage system that is owned by a school district and that is used for storing
6 heating oil for consumptive use on the premises where stored.

7 3. Subdivision 1. does not apply to remedial action in response to an emergency
8 if par. (g) applies.

9 4. Notwithstanding s. 292.11 (3) and (7) (c), an owner or operator to whom subd.
10 1. applies is not required to begin remedial action under par. (c) 3. until the owner
11 or operator receives approval under subd. 1.

12 **SECTION 9.** 101.143 (3) (cm) of the statutes is amended to read:

13 101.143 (3) (cm) *Monitoring as remedial action.* An owner or operator or person
14 owning a home oil tank system may, with the approval of the department of natural
15 resources or, if the discharge is covered under s. 101.144 (2) (b), the department of
16 commerce, satisfy the requirements of par. (c) 2. and 3. by proposing and
17 implementing monitoring to ensure the effectiveness of the natural process of
18 ~~degradation~~ attenuation of petroleum product contamination.

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283.

****NOTE: Should this provision be further changed or repealed?

19 **SECTION 10.** 101.143 (3) (cs) of the statutes is created to read:

20 101.143 (3) (cs) *Determination of least costly method of remedial action.* 1. The
21 department of commerce shall review the remedial action plan for a site that is
22 classified as low or medium priority under s. 101.144 (3m) and shall determine the
23 least costly method of complying with ~~sub. (3)~~ ^{par.} (c) 3. and with enforcement standards.

1 The department shall notify the owner or operator of its determination of the least
2 costly method and shall notify the owner or operator that reimbursement for
3 remedial action under this section is limited to the amount necessary to implement
4 that method.

5 2. The department of natural resources and the department of commerce shall
6 review the remedial action plan for a site that is classified as high priority under s.
7 101.144 (3m) and shall jointly determine the least costly method of complying with
8 ~~sub. (2) (c)~~ ^{par.} 3. and with enforcement standards. The departments shall notify the
9 owner or operator of their determination of the least costly method and shall notify
10 the owner or operator that reimbursement for remedial action under this section is
11 limited to the amount necessary to implement that method. add period

12 3. In making determinations under subd. 1. and 2., the department of natural
13 resources and the department of commerce shall determine whether natural
14 attenuation will achieve compliance with ~~sub. (2) (c)~~ ^{par.} (c) and with enforcement
15 standards.

16 **SECTION 11.** 101.143 (3) (d) of the statutes is amended to read:

17 101.143 (3) (d) *Review of site investigations, remedial action plans and*
18 *remedial action activities.* The department of natural resources or, if the discharge
19 is covered under s. 101.144 (2) (b), the department of commerce shall, at the request
20 of the claimant, review the site investigation and the remedial action plan and advise
21 the claimant on the adequacy of proposed remedial action activities in meeting the
22 requirements of s. 292.11. The advice is not an approval of the remedial action
23 activities. The department of natural resources or, if the discharge is covered under
24 s. 101.144 (2) (b), the department of commerce shall complete a final review of the

1 remedial action activities within 60 days after the claimant notifies the appropriate
2 department that the remedial action activities are completed.

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283.

***NOTE: Should this provision be amended because of the creation of s. 101.143
(3) (cs)?

3 SECTION 12. 101.143 (3) (g) (intro.) and 1. of the statutes are consolidated,
4 renumbered 101.143 (3) (g) and amended to read:

5 101.143 (3) (g) *Emergency situations*. Notwithstanding pars. (a) 3. and (c) 1.
6 and 2., an owner or operator or the person may submit a claim for an award under
7 sub. (4) after notifying the department under par. (a) 3., without completing an
8 investigation under par. (c) 1. and without preparing a remedial action plan under
9 par. (c) 2. if any of the following apply: 1. ~~An an~~ emergency existed which made the
10 investigation under par. (c) 1. and the remedial action plan under par. (c) 2.
11 inappropriate and, before conducting remedial action, the owner or operator or
12 person notified the department of natural resources of the emergency and the
13 department of natural resources authorized emergency action.

add
plain
period

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283.

14 SECTION 13. 101.143 (3) (g) 2. of the statutes is repealed.

15 SECTION 14. 101.143 (4) (b) (intro.) of the statutes is amended to read:

16 101.143 (4) (b) *Eligible costs*. (intro.) Eligible Except as provided in par. (c),
17 eligible costs for an award under par. (a) include actual costs or, if the department
18 establishes a schedule usual and customary cost under par. (cm) for an item, usual
19 and customary costs for the following items only:

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283.

20 SECTION 15. 101.143 (4) (c) 10. of the statutes is created to read:

21 101.143 (4) (c) 10. Costs incurred with respect to a discharge if sub. (3) (cg) 1.
22 applies and remedial action is begun before approval is given under sub. (3) (cg) 1.

1 **SECTION 16.** 101.143 (4) (c) 11. of the statutes is created to read:

2 101.143 (4) (c) 11. Costs that exceed the amount necessary to comply with sub.
3 (3) (c) 3. and with enforcement standards using the least costly method.

4 **SECTION 17.** 101.143 (4) (cm) of the statutes is amended to read:

5 101.143 (4) (cm) *Usual and customary costs.* The department may shall
6 establish a schedule of usual and customary costs for any items under par. (b) that
7 are commonly associated with claims under this section and may shall use that
8 schedule to determine the amount of a claimant's eligible costs, except in
9 circumstances under which higher costs must be incurred to comply with sub. (3) (c)
10 3. and with enforcement standards. In the schedule, the department shall specify
11 the maximum number of reimbursable hours for particular tasks and the maximum
12 reimbursable hourly rates for those tasks. The department shall use methods of data
13 collection and analysis that enable the schedule to be revised to reflect changes in
14 actual costs.

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283.

15 **SECTION 18.** 101.143 (4) (d) 2. and 3. of the statutes are amended to read:

16 101.143 (4) (d) 2. The department shall issue the award under this paragraph
17 without regard to fault in an amount equal to the amount of the eligible costs that
18 exceeds a deductible amount of \$2,500 plus 5% of the eligible costs, but not more than
19 \$7,500 per occurrence, except that the deductible amount for a petroleum product
20 storage system that is owned by a school district or a technical college district and
21 that is used for storing heating oil for consumptive use on the premises is 25% of
22 eligible costs. An award issued under this paragraph may not exceed the following
23 for each occurrence:

1 a. For an owner or operator of an underground petroleum product storage tank
 2 system that is located at a facility at which petroleum is stored for resale or an owner
 3 or operator of an underground petroleum product storage tank system that handles
 4 an annual average of more than 10,000 gallons of petroleum per month, \$1,000,000.

5 b. For an owner or operator other than an owner or operator under subd. 2. a.,
 6 c. or d., \$500,000.

7 c. For an owner or operator of a petroleum product storage system described
 8 in par. (ei) 1., \$100,000.

9 d. For a school district or a technical college district with respect to a discharge
 10 from a petroleum product storage system that is used for storing heating oil for
 11 consumptive use on the premises where stored, \$190,000.

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27,
 35, 237, 252, 283.

12 3. The department may not issue awards under this paragraph to an owner or
 13 operator for eligible costs incurred in one program year that total more than the
 14 following:

15 a. For an owner or operator of 100 or fewer underground petroleum product
 16 storage tank systems, \$1,000,000.

17 b. For an owner or operator of more than 100 underground petroleum product
 18 storage tank systems, \$2,000,000.

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27,
 35, 237, 252, 283.

****NOTE: This Section specifies the deductibles and maximum awards for
 underground tanks until December 22, 2001. These statutes must be amended if the
 committee determines that it wants to change the deductibles and maximums.

19 SECTION 19. 101.143 (4) (dm) 2. and 3. of the statutes are amended to read:

20 101.143 (4) (dm) 2. The department shall issue the award under this paragraph
 21 without regard to fault in an amount equal to the amount of the eligible costs that
 22 exceeds the following deductible:

1 a. For the owner or operator of a terminal, \$15,000 plus 5% of the amount by
2 which eligible costs exceed \$200,000.

3 b. For a school district or a technical college district with respect to a discharge
4 from a petroleum product storage system that is used for storing heating oil for
5 consumptive use on the premises where stored, 25% of eligible costs.

6 c. For the owner or operator of a petroleum product storage system that is
7 described in par. (ei) 1., \$2,500 plus 5% of eligible costs but not more than \$7,500 per
8 occurrence.

9 d. For an owner or operator other than an owner or operator under subd. 2. a.,
10 b. or c., \$15,000 plus 2% of the amount by which eligible costs exceed \$200,000.

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283.

11 3. An award issued under this paragraph may not exceed the following for each
12 occurrence:

13 a. For an owner or operator of a petroleum product storage system that is
14 located at a facility at which petroleum is stored for resale or an owner or operator
15 of a petroleum product storage system that handles an annual average of more than
16 10,000 gallons of petroleum per month, \$1,000,000.

17 b. For a school district or a technical college district with respect to a discharge
18 from a petroleum product storage system that is used for storing heating oil for
19 consumptive use on the premises where stored, \$190,000.

20 c. For an owner or operator of a petroleum product storage system described
21 in par. (ei) 1., \$100,000.

22 d. For an owner or operator other than an owner or operator under subd. 3. a.,
23 b. or c., \$500,000.

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283.

CS

****NOTE: This Section specifies the deductibles and maximum awards for aboveground tanks until December 22, 2001. These statutes must be amended if the committee determines that it wants to change the deductibles and maximums.

1 SECTION 20. 101.143 (4) (em) 2. and 3. of the statutes are amended to read:

2 101.143 (4) (em) 2. The department shall issue the award under this paragraph
3 without regard to fault for each home oil tank system in an amount equal to 75% of
4 the amount of the eligible costs, except that if the home oil tank system is owned by
5 a nonprofit organization that provides housing assistance to families with incomes
6 below 80% of the median income, as defined in s. 234.49 (1) (g), of the county in which
7 the home oil tank system is located, then the award shall equal 100% of the amount
8 of the eligible costs. The department shall recalculate any award made to such a
9 nonprofit organization under this paragraph before May 7, 1994, based on 100% of
10 eligible costs and shall issue an award for the difference between the award as
11 recalculated and the award issued before May 7, 1994.

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283.

12 3. An award issued under this paragraph may not exceed \$7,500.

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283.

CS

****NOTE: This Section specifies the deductibles and maximum awards for home heating oil tanks. These statutes must be amended if the committee determines that it wants to change the deductibles and maximums.

13 SECTION 21. 101.143 (11) of the statutes is created to read:

14 101.143 (11) ANNUAL REPORT. No later than October 1 annually, the department
15 of commerce and the department of natural resources shall submit to the joint
16 legislative audit committee, to the joint committee on finance and to the appropriate
17 standing committees of the legislature, under s. 13.172 (3), a report on the program
18 under this section for the fiscal year ending on June 30 of the year in which the report
19 is submitted. The departments shall include all of the following information in the
20 report:

1 (a) The number of notices received under sub. (3) (a) 3. and the number of
2 approvals given under sub. (3) (c) 4.

3 (b) The percentage of sites classified as high priority under s. ^{101.144}~~144~~ (3m).

4 (c) The name of each person providing engineering consulting services to a
5 claimant under this section and the number of claimants to whom the person has
6 provided those services.

7 (d) The changes for engineering consulting services for sites for which
8 approvals are given under sub. (3) (c) 4. and for other sites.

9 (e) The charges by service providers other than engineering consultants for
10 services for which reimbursement is provided under this section, including
11 excavating, hauling, laboratory testing and landfill disposal.

12 (f) Strategies for recording and monitoring complaints of fraud in the program
13 under this section and for the use of employees of the department of commerce who
14 conduct audits to identify questionable claims and investigate complaints.

15 **SECTION 22. Nonstatutory provisions.**

16 (1) FINANCIAL MANAGEMENT. No later than the first day of the 6th month
17 beginning after the effective date of this subsection, the department of commerce
18 shall do all of the following:

19 (a) Update its financial database for the program under section 101.143 of the
20 statutes to ensure that complete cost information related to each occurrence and to
21 the annual payment to each owner or operator is readily available.

22 (b) Investigate any variances between the amount of total payments indicated
23 by the department's financial database for the program under section 101.143 of the
24 statutes and the amount of total payments indicated by the accounts maintained by

1 the department of administration under section 16.52 of the statutes to identify
2 when the variances occurred and the reasons for the variances.

3 (c) Make any changes in the department's financial database needed to ensure
4 that the database is consistent with the accounts maintained by the department of
5 administration under section 16.52 of the statutes.

6 (2) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,
7 the department of commerce shall promulgate the rules required under section
8 101.143 (2) (h), (i) and (j) and (2e) (a) of the statutes, as created by this act, and shall
9 *add space* promulgate rules to implement *section* 101.143 (4) (cm) of the statutes, as affected by this
10 act, for the period before the effective date of the permanent rules under those
11 provisions, but not to exceed the period authorized under section 227.24 (1) (c) and
12 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b) and (3) of the
13 statutes, the department is not required to provide evidence that promulgating rules
14 under this subsection is necessary for the preservation of the public peace, health,
15 safety or welfare and is not required to provide a finding of emergency for rules
16 promulgated under this subsection. The department shall promulgate rules under
17 this subsection no later than the 30th day after the effective date of this subsection.

18 **SECTION 23. Initial applicability.**

19 (1) The treatment of section 101.143 (2e) (b), (3) (cg), (cs) and (g) and (4) (c) 10.
20 and 11. of the statutes first applies to a discharge with respect to which activities
21 under section 101.143 (3) (c) 3. or (g) of the statutes are begun on the effective date
22 of this subsection.

23 (END)

ONote

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2110/P1dn

RCT:.....

cmH

Pam Shannon:

This is a preliminary version of the PECFA bill draft for the Joint Legislative Audit Committee. Please review it carefully to determine whether it complies with the intent of the drafting request. Please also consider whether additional changes need to be made to the statutes to accomplish that intent. I have included some notes in the text of the draft to raise specific issues. *drafting*

* I have drafted this bill based on the understanding from our meeting the other day that the intent is not so much to tell tank owners that they may not conduct a more complete cleanup than is necessary to get state approval or that they must use a certain clean-up method, but to tell them that the state will not provide reimbursement in an amount that exceeds the amount necessary to get state approval using the least costly method.

Please note that this draft eliminates any PECFA reimbursement for a cleanup if the owner started the cleanup before getting approval from DNR and the department of commerce.

This draft includes a requirement for the department of commerce to promulgate emergency rules. Drafts sometimes also include a deadline for an agency to submit proposed permanent rules to the Legislative Council Staff. Do you want to include such a provision in this draft?

Should the draft provide position authorization or funding for the department of commerce or DNR?

Please call if you have any questions about the draft or wish to discuss it.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: Becky.Tradewell@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2110/P1dn
RCT:cmh:ijs

February 15, 1999

Pam Shannon:

This is a preliminary version of the PECFA bill draft for the Joint Legislative Audit Committee. Please review it carefully to determine whether it complies with the intent of the drafting request. Please also consider whether additional changes need to be made to the statutes to accomplish that intent. I have included some notes in the text of the draft to raise specific drafting issues.

I have drafted this bill based on the understanding from our meeting the other day that the intent is not so much to tell tank owners that they may not conduct a more complete cleanup than is necessary to get state approval or that they must use a certain clean-up method, but to tell them that the state will not provide reimbursement in an amount that exceeds the amount necessary to get state approval using the least costly method.

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Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: Becky.Tradewell@legis.state.wi.us

1/19 Mtg w. Pam Shannon, Kendra Borderud + Don Bezruki

✓1. Add -217d(P) but change revenue bonding amount to \$450,000,000

✓2. Proposed s. 101.143(3)(cg) - ensure it is clear that this applies only if you want ^{PERF} reimbursement

✓3. Strike all but last sentence of s. 101.143(3)(d)

✓4. Per Don - re proposed s. 101.143(2)(i): Require risk assessment to be used - determine most cost-effective method (inc. natural attenuation) + require it to be clean-up used - mention that ~~any~~ costs from changing method are reimbursable

✓5. Give Commerce 9 mos. to submit proposed permanent rules to LC Staff.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2170/P1dn
KSH:kmg:jf

February 10, 1999

This preliminary draft differs significantly from 1997 AB-861 to address concerns that bond counsel had with that draft. We have worked with DOA to resolve these problems. The attached draft reflects the efforts of bond counsel and DOA capital finance. Please review the draft carefully to ensure that it is consistent with your intent. In particular, please consider the following:

1. In a traditional revenue bonding situation, the bond proceeds are used to build a revenue-producing enterprise, the revenues from which are used to repay the bonds. In this case, there is no clear link between the petroleum inspection fee and the payment of claims under the PECFA program. It is my understanding that the petroleum inspection fee predated the PECFA program and could continue to be raised without the continuance of the PECFA program. The payment of claims does not produce the revenue used to pay the bonds. For this reason, the proposed revenue bonding for PECFA does not fit neatly within the notion of revenue bond under ch. 18.

This bill creates a new type of "revenue bond" referred to as a "special fund obligation". The Wisconsin Supreme Court has recently stated that "an obligation payable exclusively from a special fund created by the imposition of fees, penalties or excise taxes, and for the payment of which the general credit of the state or municipality is not pledged ... is not a debt within the meaning of constitutional debt limitations". *Libertarian Party v. State*, 199 Wis. 2d 790, 818 (1996) (quoting 100 ALR 900, 901 (1936)). This bill incorporates this concept into ch. 18 to provide for 2 types of revenue bonds under ch. 18: 1) enterprise obligations (currently, all revenue bonding consists of this type); and 2) special fund obligations (the type of revenue bonding authorized for the PECFA revenue bonds under the draft).

2. In making these changes under ch. 18, bond counsel has recommended a number of minor modifications to clean up the existing ch. 18 language. For example, references to bonds have been changed to obligations. Please review all of the changes made by the draft and let me know if any portion of them is inconsistent with your intent.

3. At bond counsel's suggestion, the draft adds a state moral obligation pledge with respect to the bonds. This language expresses the legislature's expectation that, if the legislature lowers the rate of the petroleum inspection fee and there are insufficient revenues in the petroleum inspection fund to pay off the bonds, the legislature would appropriate additional moneys to pay off the bonds.

Please let me know if you have any questions on this draft or if any portion of it is inconsistent with your intent.

K. Scott Hubli
Administrative Services Manager
Phone: (608) 266-0135
E-mail: Scott.Hubli@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2110/P2

RCT:cmh:ijs

Wed (2/25)
(by noon if possible)

4 KSH redraft
make
run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

regenerate
↓

1 AN ACT to repeal 101.143 (3) (g) 2.; to consolidate, renumber and amend
2 101.143 (3) (g) (intro.) and 1.; to amend 101.143 (3) (c) 2., 101.143 (3) (cm),
3 101.143 (3) (d), 101.143 (4) (b) (intro.), 101.143 (4) (cm), 101.143 (4) (d) 2. and
4 3., 101.143 (4) (dm) 2. and 3. and 101.143 (4) (em) 2. and 3.; and to create
5 101.143 (1) (bm), 101.143 (1) (cq), 101.143 (2) (h), 101.143 (2) (i), 101.143 (2) (j),
6 101.143 (2e), 101.143 (3) (cg), 101.143 (3) (cs), 101.143 (4) (c) 10., 101.143 (4) (c)
7 11. and 101.143 (11) of the statutes; relating to: the petroleum storage
8 remedial action program ^{Insert 1-8} and granting rule-making authority ^{and making} appropriations

✓
Insert Anal - 2170
✓
Insert
Anal - 2110/P2

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

✓
Insert
1-9 9

SECTION 1. 101.143 (1) (bm) of the statutes is created to read:

10 101.143 (1) (bm) "Enforcement standard" has the meaning given in s. 160.01
11 (2).

1 **SECTION 2.** 101.143 (1) (cq) of the statutes is created to read:

2 101.143 (1) (cq) “Natural attenuation” means the reduction in the
3 concentration and mass of a substance, and the products into which the substance
4 breaks down, due to naturally occurring physical, chemical and biological processes.

5 **SECTION 3.** 101.143 (2) (h) of the statutes is created to read:

6 101.143 (2) (h) The department of commerce, in consultation with the
7 department of natural resources, shall promulgate rules designed to facilitate
8 effective and cost-efficient administration of the program under this section that
9 specify all of the following:

10 1. Information that must be submitted under this section, including periodic
11 summaries of costs incurred with respect to a discharge for which a claim is intended
12 to be submitted under sub. (3) but for which a final claim has not been submitted.

13 2. Formats for submitting the information under subd. 1.

14 3. Review procedures that must be followed by employes of the department of
15 natural resources and the department of commerce in reviewing the information
16 under subd. 1.

17 **SECTION 4.** 101.143 (2) (i) of the statutes is created to read:

18 101.143 (2) (i) The department of commerce, in consultation with the
19 department of natural resources, shall promulgate rules specifying procedures for
20 evaluating remedial actions under sub. (3) (c) 3. to be used by employes of the
21 department of commerce and the department of natural resources while remedial
22 actions are being conducted. The department of commerce shall specify procedures

23 that include ^{all of the following for} ~~annual reviews of~~ ongoing remedial actions, ^{and} ~~and~~ ^{annual reports by} ~~and~~ consultants estimating the additional costs that must be incurred to comply with
24 sub. (3) (c) 3. and with enforcement standards.
25

1 **SECTION 5.** 101.143 (2) (j) of the statutes is created to read:

2 101.143 (2) (j) The department of commerce, in consultation with the
3 department of natural resources, shall promulgate rules specifying all of the
4 following:

5 1. The conditions under which employes of the department of commerce and
6 the department of natural resources must issue approvals under sub. (3) (c) 4.

7 2. Training and management procedures to ensure that employes comply with
8 the requirements under subd. 1.

9 **SECTION 6.** 101.143 (2e) of the statutes is created to read:

10 101.143 (2e) RISK-BASED ANALYSIS. (a) The department of commerce, in
11 consultation with the department of natural resources, shall promulgate rules
12 specifying a method for determining the risk to public health, safety and welfare and
13 to the environment posed by discharges for which the department of commerce
14 receives notification under sub. (3) (a) 3.

15 (b) The department of natural resources or, if the discharge is covered under
16 s. 101.144 (2) (b), the department of commerce shall apply the method under par. (a)
17 to determine the risk posed by a discharge for which the department of commerce
18 receives notification under sub. (3) (a) 3.

19 **SECTION 7.** 101.143 (3) (c) 2. of the statutes is amended to read:

20 101.143 (3) (c) 2. Prepare a remedial action plan that identifies specific
21 remedial action activities proposed to be conducted under subd. 3. and submit the
22 remedial action plan to the department.

23 **SECTION 8.** 101.143 (3) (cg) of the statutes is created to read:

24 101.143 (3) (cg) *Approval to begin remedial action.* 1. Except as provided in
25 subds. 2. and 3. *to be eligible for an award under sub. (4)*, an owner or operator may not begin remedial action under par. (c)

1 3. with respect to a discharge without the approval of the department of commerce
2 and the department of natural resources. The department of commerce and the
3 department of natural resources shall jointly determine when it is appropriate to
4 begin remedial action with respect to a discharge based on the determination of risk
5 under sub. (2e) (b) for the discharge and the availability of funds to pay awards under
6 sub. (4).

7 2. Subdivision 1. does not apply if the discharge is from a home oil tank system,
8 a petroleum product storage system that is described in sub. (4) (ei) 1. or a petroleum
9 product storage system that is owned by a school district and that is used for storing
10 heating oil for consumptive use on the premises where stored.

11 3. Subdivision 1. does not apply to remedial action in response to an emergency
12 if par. (g) applies.

13 4. Notwithstanding s. 292.11 (3) and (7) (c), an owner or operator to whom subd.
14 1. applies is not required to begin remedial action under par. (c) 3. until the owner
15 or operator receives approval under subd. 1.

16 **SECTION 9.** 101.143 (3) (cm) of the statutes is amended to read:

17 101.143 (3) (cm) *Monitoring as remedial action.* An owner or operator or person
18 owning a home oil tank system may, with the approval of the department of natural
19 resources or, if the discharge is covered under s. 101.144 (2) (b), the department of
20 commerce, satisfy the requirements of par. (c) 2. and 3. by proposing and
21 implementing monitoring to ensure the effectiveness of the natural process of
22 ~~degradation~~ attenuation of petroleum product contamination.

~~****NOTE: Should this provision be further changed or repealed?~~

23 **SECTION 10.** 101.143 (3) (cs) of the statutes is created to read:

1 101.143 (3) (cs) *Determination of least costly method of remedial action.* 1. The
 2 department of commerce shall review the remedial action plan for a site that is
 3 classified as low or medium priority under s. 101.144 (3m) and shall determine the
 4 least costly method of complying with par. (c) 3. and with enforcement standards.
 5 The department shall notify the owner or operator of its determination of the least
 6 costly method and shall notify the owner or operator that reimbursement for
 7 remedial action under this section is limited to the amount necessary to implement
 8 that method.

9 2. The department of natural resources and the department of commerce shall
 10 review the remedial action plan for a site that is classified as high priority under s.
 11 101.144 (3m) and shall jointly determine the least costly method of complying with
 12 par. (c) 3. and with enforcement standards. The departments shall notify the owner
 13 or operator of their determination of the least costly method and shall notify the
 14 owner or operator that reimbursement for remedial action under this section is
 15 limited to the amount necessary to implement that method.

16 3. In making determinations under subds. 1. and 2., the department of natural
 17 resources and the department of commerce shall determine whether natural
 attenuation will achieve compliance with par. (c) ^{3.} and with enforcement standards.

✓
 5-18
 18
 Insert

19 SECTION 11. 101.143 (3) (d) of the statutes is amended to read:

Strike

20 101.143 (3) (d) ~~Review of site investigations, remedial action plans and~~
 21 ~~remedial action activities.~~ ^{Final reviews of} ~~The department of natural resources or, if the discharge~~
 22 ~~is covered under s. 101.144 (2) (b), the department of commerce shall, at the request~~
 23 ~~of the claimant, review the site investigation and the remedial action plan and advise~~
 24 ~~the claimant on the adequacy of proposed remedial action activities in meeting the~~
 25 ~~requirements of s. 292.11. The advice is not an approval of the remedial action~~

↙

1 ~~activities.~~ ^{plain space} The department of natural resources or, if the discharge is covered under
 2 s. 101.144 (2) (b), the department of commerce shall complete a final review of the
 3 remedial action activities within 60 days after the claimant notifies the appropriate
 4 department that the remedial action activities are completed.

***NOTE Should this provision be amended because of the creation of s. 101.143
 (3) (cs)?

5 SECTION 12. 101.143 (3) (g) (intro.) and 1. of the statutes are consolidated,
 6 renumbered 101.143 (3) (g) and amended to read:

7 101.143 (3) (g) *Emergency situations.* Notwithstanding pars. (a) 3. and (c) 1.
 8 and 2., an owner or operator or the person may submit a claim for an award under
 9 sub. (4) after notifying the department under par. (a) 3., without completing an
 10 investigation under par. (c) 1. and without preparing a remedial action plan under
 11 par. (c) 2. if any of the following apply: 1. An an emergency existed which made the
 12 investigation under par. (c) 1. and the remedial action plan under par. (c) 2.
 13 inappropriate and, before conducting remedial action, the owner or operator or
 14 person notified the department of natural resources of the emergency and the
 15 department of natural resources authorized emergency action.

16 SECTION 13. 101.143 (3) (g) 2. of the statutes is repealed.

17 SECTION 14. 101.143 (4) (b) (intro.) of the statutes is amended to read:

18 101.143 (4) (b) *Eligible costs.* (intro.) ~~Eligible~~ Except as provided in par. (c),
 19 eligible costs for an award under par. (a) include actual costs or, if the department
 20 establishes a schedule usual and customary cost under par. (cm) for an item, usual
 21 and customary costs for the following items only:

22 SECTION 15. 101.143 (4) (c) 10. of the statutes is created to read:

1 101.143 (4) (c) 10. Costs incurred with respect to a discharge if sub. (3) (cg) 1.
2 applies and remedial action is begun before approval is given under sub. (3) (cg) 1.

3 **SECTION 16.** 101.143 (4) (c) 11. of the statutes is created to read:

4 101.143 (4) (c) 11. Costs that exceed the amount necessary to comply with sub.
5 (3) (c) 3. and with enforcement standards using the least costly method.

6 **SECTION 17.** 101.143 (4) (cm) of the statutes is amended to read:

7 101.143 (4) (cm) *Usual and customary costs.* The department ~~may~~ shall
8 establish a schedule of usual and customary costs for ~~any~~ items under par. (b) that
9 are commonly associated with claims under this section and ~~may~~ shall use that
10 schedule to determine the amount of a ~~claimant's~~ eligible costs, except in
11 circumstances under which higher costs must be incurred to comply with sub. (3) (c)
12 3. and with enforcement standards. In the schedule, the department shall specify
13 the maximum number of reimbursable hours for particular tasks and the maximum
14 reimbursable hourly rates for those tasks. The department shall use methods of data
15 collection and analysis that enable the schedule to be revised to reflect changes in
16 actual costs.

17 **SECTION 18.** 101.143 (4) (d) 2. and 3. of the statutes are amended to read:

18 101.143 (4) (d) 2. The department shall issue the award under this paragraph
19 without regard to fault in an amount equal to the amount of the eligible costs that
20 exceeds a deductible amount of \$2,500 plus 5% of the eligible costs, but not more than
21 \$7,500 per occurrence, except that the deductible amount for a petroleum product
22 storage system that is owned by a school district or a technical college district and
23 that is used for storing heating oil for consumptive use on the premises is 25% of
24 eligible costs. An award issued under this paragraph may not exceed the following
25 for each occurrence:

✓
Insert
7-5 →

1 a. For an owner or operator of an underground petroleum product storage tank
2 system that is located at a facility at which petroleum is stored for resale or an owner
3 or operator of an underground petroleum product storage tank system that handles
4 an annual average of more than 10,000 gallons of petroleum per month, \$1,000,000.

5 b. For an owner or operator other than an owner or operator under subd. 2. a.,
6 c. or d., \$500,000.

7 c. For an owner or operator of a petroleum product storage system described
8 in par. (ei) 1., \$100,000.

9 d. For a school district or a technical college district with respect to a discharge
10 from a petroleum product storage system that is used for storing heating oil for
11 consumptive use on the premises where stored, \$190,000.

12 3. The department may not issue awards under this paragraph to an owner or
13 operator for eligible costs incurred in one program year that total more than the
14 following:

15 a. For an owner or operator of 100 or fewer underground petroleum product
16 storage tank systems, \$1,000,000.

17 b. For an owner or operator of more than 100 underground petroleum product
18 storage tank systems, \$2,000,000.

****NOTE: This SECTION specifies the deductibles and maximum awards for
underground tanks until December 22, 2001. These statutes must be amended if the
committee determines that it wants to change the deductibles and maximums.

19 **SECTION 19.** 101.143 (4) (dm) 2. and 3. of the statutes are amended to read:

20 101.143 (4) (dm) 2. The department shall issue the award under this paragraph
21 without regard to fault in an amount equal to the amount of the eligible costs that
22 exceeds the following deductible:

1 a. For the owner or operator of a terminal, \$15,000 plus 5% of the amount by
2 which eligible costs exceed \$200,000.

3 b. For a school district or a technical college district with respect to a discharge
4 from a petroleum product storage system that is used for storing heating oil for
5 consumptive use on the premises where stored, 25% of eligible costs.

6 c. For the owner or operator of a petroleum product storage system that is
7 described in par. (ei) 1., \$2,500 plus 5% of eligible costs but not more than \$7,500 per
8 occurrence.

9 d. For an owner or operator other than an owner or operator under subd. 2. a.,
10 b. or c., \$15,000 plus 2% of the amount by which eligible costs exceed \$200,000.

11 3. An award issued under this paragraph may not exceed the following for each
12 occurrence:

13 a. For an owner or operator of a petroleum product storage system that is
14 located at a facility at which petroleum is stored for resale or an owner or operator
15 of a petroleum product storage system that handles an annual average of more than
16 10,000 gallons of petroleum per month, \$1,000,000.

17 b. For a school district or a technical college district with respect to a discharge
18 from a petroleum product storage system that is used for storing heating oil for
19 consumptive use on the premises where stored, \$190,000.

20 c. For an owner or operator of a petroleum product storage system described
21 in par. (ei) 1., \$100,000.

22 d. For an owner or operator other than an owner or operator under subd. 3. a.,
23 b. or c., \$500,000.

****NOTE: This SECTION specifies the deductibles and maximum awards for aboveground tanks until December 22, 2001. These statutes must be amended if the committee determines that it wants to change the deductibles and maximums.

1 **SECTION 20.** 101.143 (4) (em) 2. and 3. of the statutes are amended to read:

2 101.143 (4) (em) 2. The department shall issue the award under this paragraph
3 without regard to fault for each home oil tank system in an amount equal to 75% of
4 the amount of the eligible costs, except that if the home oil tank system is owned by
5 a nonprofit organization that provides housing assistance to families with incomes
6 below 80% of the median income, as defined in s. 234.49 (1) (g), of the county in which
7 the home oil tank system is located, then the award shall equal 100% of the amount
8 of the eligible costs. The department shall recalculate any award made to such a
9 nonprofit organization under this paragraph before May 7, 1994, based on 100% of
10 eligible costs and shall issue an award for the difference between the award as
11 recalculated and the award issued before May 7, 1994.

12 3. An award issued under this paragraph may not exceed \$7,500.

 ****NOTE: This SECTION specifies the deductibles and maximum awards for home
heating oil tanks. These statutes must be amended if the committee determines that it
wants to change the deductibles and maximums.

✓
-Insert
10-12
13 **SECTION 21.** 101.143 (11) of the statutes is created to read:

14 101.143 (11) ANNUAL REPORT. No later than October 1 annually, the department
15 of commerce and the department of natural resources shall submit to the joint
16 legislative audit committee, to the joint committee on finance and to the appropriate
17 standing committees of the legislature, under s. 13.172 (3), a report on the program
18 under this section for the fiscal year ending on June 30 of the year in which the report
19 is submitted. The departments shall include all of the following information in the
20 report:

21 (a) The number of notices received under sub. (3) (a) 3. and the number of
22 approvals given under sub. (3) (c) 4.

23 (b) The percentage of sites classified as high priority under s. 101.144 (3m).

1 (c) The name of each person providing engineering consulting services to a
2 claimant under this section and the number of claimants to whom the person has
3 provided those services.

4 (d) The ^{charges}~~charges~~ for engineering consulting services for sites for which
5 approvals are given under sub. (3) (c) 4. and for other sites.

6 (e) The charges by service providers other than engineering consultants for
7 services for which reimbursement is provided under this section, including
8 excavating, hauling, laboratory testing and landfill disposal.

9 (f) Strategies for recording and monitoring complaints of fraud in the program
10 under this section and for the use of employees of the department of commerce who
11 conduct audits to identify questionable claims and investigate complaints.

Insert →
11-11
12 **SECTION 22. Nonstatutory provisions.**

13 (1) FINANCIAL MANAGEMENT. No later than the first day of the 6th month
14 beginning after the effective date of this subsection, the department of commerce
15 shall do all of the following:

16 (a) Update its financial data base for the program under section 101.143 of the
17 statutes to ensure that complete cost information related to each occurrence and to
18 the annual payment to each owner or operator is readily available.

19 (b) Investigate any variances between the amount of total payments indicated
20 by the department's financial data base for the program under section 101.143 of the
21 statutes and the amount of total payments indicated by the accounts maintained by
22 the department of administration under section 16.52 of the statutes to identify
23 when the variances occurred and the reasons for the variances.

(CS)

(c) Make any changes in the department's financial data base needed to ensure that the data base is consistent with the accounts maintained by the department of administration under section 16.52 of the statutes.

Rule making (Insert) (b)
~~EMERGENCY RULES~~

(2) Using the procedure under section 227.24 of the statutes, the department of commerce shall promulgate the rules required under section 101.143 (2) (h), (i) and (j) and (2e) (a) of the statutes, as created by this act, and shall promulgate rules to implement section 101.143 (4) (cm) of the statutes, as affected

by this act, for the period before the effective date of the permanent rules ~~under these~~ ^{submitted under par. (c)}

provisions, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b) and (3) of the

statutes, the department is not required to provide evidence that promulgating rules under this ^{paragraph} subsection is necessary for the preservation of the public peace, health,

safety or welfare and is not required to provide a finding of emergency for rules promulgated under this ^{paragraph} subsection. The department shall promulgate rules under

this ^{paragraph} subsection no later than the 30th day after the effective date of this ^{paragraph} subsection.

SECTION 23. Initial applicability.

(1) The treatment of section 101.143 (2e) (b), (3) (cg), (cs) and (g) and (4) (c) 10. and 11. of the statutes first applies to a discharge with respect to which activities under section 101.143 (3) (c) 3. or (g) of the statutes are begun on the effective date of this subsection.

(END)

auto reference "a" (insert 12-4)

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Inserts 1-8, Anal-2170, 1-9, 10-12 & 11-11

1 **AN ACT** to *renumber* 18.52 (5) (c), 18.56 (7) and (8) and 18.56 (9) (a) to (j); *to*
 2 *renumber and amend* 18.52 (5) (intro.), 18.52 (5) (a), 18.52 (5) (b), 18.53 (3),
 3 18.56 (1), 18.56 (2) to (6), 18.56 (9) (intro.), 18.56 (10), 18.57 (4), 18.60 (5) and
 4 25.47; *to amend* 18.51, 18.57 (1), 18.58 (1), 18.60 (1), 18.60 (2), 18.61 (2), 18.61
 5 (3) (a), 18.61 (3) (b) (intro.), 18.61 (3) (b) 1., 18.61 (3) (b) 3., 18.61 (3) (b) 4., 18.61
 6 (3) (c), 18.61 (4), 20.143 (3) (v), 45.79 (9) (a), 84.59 (2), 85.52 (5) (c) and 281.59
 7 (4) (b); *to repeal and recreate* 18.57 (title); and *to create* 18.52 (2m) (intro.),
 8 18.52 (7), 18.52 (8), 18.53 (3) (a) and (b), 18.561 (title), 18.561 (1), 18.561 (7)
 9 (title), 18.561 (8) (title), 18.561 (9) (k), 18.562, 18.60 (5) (a) to (c), 20.143 (3) (s),
 10 20.143 (3) (t), 20.143 (3) (u), 20.143 (3) (vb), 25.47 (5) and 101.143 (9m) of the
 11 statutes; **relating to** authorizing revenue obligations to fund payment of
 12 *Insert* claims under the petroleum storage remedial action program; authorizing a
 121-8

Insert 1-8, continued

1 new type of revenue obligation; granting revenue bonding authority, and
2 making appropriations.

(END OF INSERT)

Analysis by the Legislative Reference Bureau

Under current law, the department of commerce ~~department~~ administers a program to reimburse owners of certain petroleum product storage tanks for a portion of the costs of cleaning up discharges from those tanks. This program is commonly known as PECFA. *This bill makes numerous changes concerning PECFA and*

ISSUANCE OF
This bill authorizes the department to issue revenue obligations, to be paid from revenues deposited in the petroleum inspection fund, to fund the payment of claims under the PECFA program. Revenue obligations issued under this bill may not exceed ~~\$400,000,000~~ \$450,000,000 in principal amount. In addition to this limit on principal amount, the bill authorizes the issuance of revenue obligations to fund or refund these outstanding revenue obligations, to pay issuance or administrative expenses, to make deposits to reserve funds or to pay accrued or capitalized interest. The building commission may pledge any portion of revenues received from the proceeds of the obligations or the petroleum inspection fund to secure revenue obligations issued under this bill. The building commission may issue the revenue obligations when it reasonably appears to the building commission that the obligations can be fully paid on a timely basis from the petroleum inspection fund. The bill provides a so-called "moral obligation pledge" which applies if the legislature reduces the rate of the petroleum inspection fee. If the rate is reduced and there are insufficient funds in the petroleum inspection fund to pay the principal and interest on the revenue obligations, the legislature expresses its expectation and aspiration that it would make an appropriation from the general fund sufficient to pay the principal and interest on the obligations.

Under current law, the state may issue "revenue obligations" for certain specified purposes. In general, a revenue obligation is an obligation that is: 1) incurred to purchase, acquire, lease, construct, improve, operate or manage a revenue-producing enterprise; and 2) repayable solely from, and secured solely by, the property or income from the revenue-producing enterprise.

This bill broadens the definition of revenue obligation to allow revenue bonding in situations which would not meet the current law definition of revenue obligation. Under the bill, revenue obligations consist of two different types: enterprise obligations and special fund obligations. The first type of revenue obligation, called an enterprise obligation, includes all obligations authorized under current law; i.e., obligations that are incurred to purchase, acquire, lease, construct, improve, operate or manage a revenue-producing enterprise and are repayable solely from, and secured solely by, the property or income from that revenue-producing enterprise. The definition of enterprise obligation under the bill is broader than the current law definition of revenue obligation in that it eliminates the requirement that, *they* bond be repayable solely from, and be solely secured by, property or income from the revenue-producing enterprise.

INSERT ANAL-21-10

subsidy Revenue obligations

\$450,000,000

concerning the issuance of revenue obligations by this State.

they

Insert Anal-2170, continued

The second type of revenue obligation, a special fund obligation, is created by the bill. Special fund obligations are an undertaking by the state to repay a certain amount of borrowed money that is payable from a special fund consisting of fees, penalties or excise taxes. The bill uses this second type of revenue obligation to authorize the revenue obligation bonding for the PECFA program.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

End of insert

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

X
SECTION 1. 18.51 of the statutes is amended to read:

18.51 **Provisions applicable.** The following sections apply to this subchapter, except that all references to "public debt" or "debt" ~~are deemed shall be read~~ to refer to a "revenue obligation" and all references to "evidences of indebtedness" shall be read to refer to "evidences of revenue obligations": ss. 18.02, 18.03, 18.06 (8), 18.07, 18.10 (1), (2), (4) to (9) and (11) and 18.17.

X
SECTION 2. 18.52 (2m) (intro.) of the statutes is created to read:

18.52 (2m) (intro.) "Enterprise obligation" means every undertaking by the state to repay a certain amount of borrowed money that is all of the following:

X
SECTION 3. 18.52 (5) (intro.) of the statutes is renumbered 18.52 (5) and amended to read:

18.52 (5) "Revenue obligation" means every undertaking by the state to repay a certain amount of borrowed money which is: an enterprise obligation or a special fund obligation. A revenue obligation may be both an enterprise obligation and a special fund obligation.

X
SECTION 4. 18.52 (5) (a) of the statutes is renumbered 18.52 (2m) (a) and amended to read:

↓

Insert 1-9

insert 1-9: 3-1

Insert 1-9, cont.

1 18.52 (2m) (a) Created for the purpose of purchasing, acquiring, leasing,
2 constructing, extending, expanding, adding to, improving, conducting, controlling,
3 operating or managing a revenue-producing enterprise or program;

4 SECTION 5. 18.52 (5) (b) of the statutes is renumbered 18.52 (2m) (b) and
5 amended to read:

6 18.52 (2m) (b) Payable solely from and secured solely by the property or income
7 or both of the enterprise or program; and.

8 SECTION 6. 18.52 (5) (c) of the statutes is renumbered 18.52 (2m) (c).

9 SECTION 7. 18.52 (7) of the statutes is created to read:

10 18.52 (7) "Special fund obligation" means every undertaking by the state to
11 repay a certain amount of borrowed money ~~or debt~~ *that* is all of the following:

12 (a) Payable from a special fund consisting of fees, penalties or excise taxes.

13 (b) Not public debt under s. 18.01 (4).

14 SECTION 8. 18.52 (8) of the statutes is created to read:

15 18.52 (8) "Special fund program" means a state program or purpose with
16 respect to which the legislature has determined that financing with special fund
17 obligations is appropriate and will serve a public purpose.

18 SECTION 9. 18.53 (3) of the statutes is renumbered 18.53 (3) (intro.) and
19 amended to read:

20 18.53 (3) (intro.) The commission shall authorize money to be borrowed and
21 evidences of revenue obligation to be issued therefor up to the amounts specified by
22 the legislature to purchase, acquire, lease, construct, extend, expand, add to,
23 improve, conduct, control, operate or manage such revenue-producing enterprises
24 or programs as are specified by the legislature as the funds are required. The
25 requirements for funds shall be established by the state department or agency head

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Insert 1-9, cont.

1 carrying out program responsibilities for which the revenue obligations have been
2 authorized by the legislature, but shall not exceed the following:

3 **SECTION 10.** 18.53 (3) (a) and (b) of the statutes are created to read:

4 18.53 (3) (a) In the case of enterprise obligations, the amounts specified by the
5 legislature to purchase, acquire, lease, construct, extend, expand, add to, improve,
6 conduct, control, operate or manage such revenue-producing enterprises or
7 programs as are specified by the legislature.

8 (b) In the case of special fund obligations, the amount specified by the
9 legislature for such expenditures to be paid from special fund obligations.

10 **SECTION 11.** 18.56 (1) of the statutes is renumbered 18.56 and amended to read:

11 **18.56 Revenue bonds obligations.** The commission may authorize, for any
12 of the purposes described in s. 18.53 (3), the issuance of ~~revenue-obligation bonds~~
13 revenue obligations. The ~~bonds~~ revenue obligations shall mature at any time not
14 exceeding 50 years from the date thereof as the commission shall determine. The
15 ~~bonds~~ revenue obligations shall be payable only out of the redemption fund provided
16 under sub. s. 18.561 (5) or 18.562 (3) and each ~~bond~~ revenue obligation shall contain
17 on its face a statement to that effect. ~~Any such bonds~~ A revenue obligation may
18 contain a provision authorizing redemption, in whole or in part, at stipulated prices,
19 at the option of the commission and shall provide the method of redeeming the ~~bonds~~.
20 ~~The state and a contracting party may provide in any contract for purchasing or~~
21 ~~acquiring a revenue-producing enterprise or program, that payment shall be made~~
22 ~~in such bonds~~ revenue obligations.

23 **SECTION 12.** 18.56 (2) to (6) of the statutes are renumbered 18.561 (2) to (6) and
24 amended to read:

↓

Insert 1-9, cont.

extend striking

1 18.561 (2) SECURITY INTERESTS OF OWNERS OF ENTERPRISE OBLIGATIONS. There
2 shall be ~~is~~ a mortgage lien upon or security interest in the income and property of
3 each revenue-producing enterprise or program ~~to~~ for the benefit of the holders
4 owners of the related bonds ~~and to the holders of the coupons of the bonds.~~ The note
5 ~~or other instrument evidencing the security interest of a bondholder in a loan made~~
6 ~~or purchased with revenue obligation bonds shall constitute a statutory lien on the~~
7 ~~revenue~~ enterprise obligations. No physical delivery, recordation or other action is
8 required to perfect the security interest. The income and property of the
9 revenue-producing enterprise or program shall remain subject to the lien until
10 provision for payment in full of the principal and interest of the ~~bonds~~ enterprise
11 obligations has been made, as provided in the authorizing resolution. Any holder
12 ~~owner of such bonds or attached coupons~~ enterprise obligations may either at law or
13 in equity protect and enforce the lien and compel performance of all duties required
14 by this section. If there is any default in the payment of the principal or interest of
15 any of such ~~bonds~~ enterprise obligations, any court having jurisdiction of the action
16 may appoint a receiver to administer the revenue-producing enterprise or program
17 on behalf of the state and the ~~bondholders~~ owners of the enterprise obligations, with
18 power to charge and collect rates sufficient to provide for the payment of the
19 operating expenses and also to pay any bonds or enterprise obligations outstanding
20 against the revenue-producing enterprise or program, and to apply the income and
21 revenues thereof in conformity with this subchapter and the authorizing resolution,
22 or the court may declare the whole amount of the ~~bonds~~ enterprise obligations due
23 and payable, if such relief is requested, and may order and direct the sale of the
24 revenue-producing enterprise or program. Under any sale so ordered, the purchaser
25 shall be vested with an indeterminate permit to maintain and operate the

(4)

↓

Insert 1-9, cont.

1 revenue-producing enterprise or program. The legislature may provide for
2 additions, extensions and improvements to a revenue-producing enterprise or
3 program to be financed by additional issues of ~~bonds~~ enterprise obligations as
4 provided by this section. Such additional issues of ~~bonds~~ enterprise obligations shall
5 be subordinate to all prior related issues of ~~bonds~~ enterprise obligations which may
6 have been made under this section, unless the legislature, in the statute authorizing
7 the initial issue of ~~bonds~~ enterprise obligations, permits the issue of additional ~~bonds~~
8 enterprise obligations on a parity therewith.

9 (3) DEDICATION OF REVENUES. As accurately as possible in advance, the
10 commission and the state department or agency carrying out program
11 responsibilities for which ~~bonds~~ enterprise obligations are to be issued shall
12 determine, and the commission shall fix in the authorizing resolution for such ~~bonds~~
13 enterprise obligations: the proportion of the revenues of the revenue-producing
14 enterprise or program which shall be necessary for the reasonable and proper
15 operation and maintenance thereof; the proportion of the revenues which shall be set
16 aside as a proper and adequate replacement and reserve fund; and the proportion of
17 the revenues which shall be set aside and applied to the payment of the principal and
18 interest of the ~~bonds~~ enterprise obligations, and shall provide that the revenues be
19 set aside in separate funds. At any time after one year's operation, the state
20 department or agency and the commission may recompute the proportion of the
21 revenues which shall be assignable under this subsection based upon the experience
22 of operation or upon the basis of further financing.

23 (4) REPLACEMENT AND RESERVE FUND. The proportion set aside to the
24 replacement and reserve fund shall be available and shall be used, whenever
25 necessary, to restore any deficiency in the redemption fund for the payment of the



Insert 1-9 cont.

1 principal and interest due on ~~bonds~~ enterprise obligations and for the creation and
2 maintenance of any reserves established by the authorizing resolution to secure such
3 payments. At any time when the redemption fund is sufficient for said purposes,
4 moneys in the replacement and reserve fund may, subject to available
5 appropriations, be expended either in the revenue-producing enterprise or program
6 or in new acquisitions, constructions, extensions ~~or~~, additions, expansions or
7 improvements. Any accumulations of the replacement and reserve fund may be
8 invested as provided in this subchapter, and if invested, the income from the
9 investment shall be carried in the replacement and reserve fund.

10 (5) REDEMPTION FUND. The proportion which shall be set aside for the payment
11 of the principal and interest ~~of such bonds~~ on the enterprise obligations shall from
12 month to month as they accrue and are received, be set apart and paid into a separate
13 fund in the treasury or in an account maintained by a trustee under sub. (9) (j) to be
14 identified as "the ... redemption fund". Each redemption fund shall be expended, and
15 all moneys from time to time on hand therein are irrevocably appropriated, in sums
16 sufficient, only for the payment of principal and interest on the ~~revenue~~ enterprise
17 obligations giving rise to it and premium, if any, due upon ~~refunding~~ redemption of
18 any such obligations. Moneys in the redemption funds may be commingled only for
19 the purpose of investment with other public funds, but they shall be invested only
20 in investment instruments permitted in s. 25.17 (3) (dr). All such investments shall
21 be the exclusive property of the fund and all earnings on or income from such
22 investments shall be credited to the fund.

23 (6) REDEMPTION FUND SURPLUS. If any surplus is accumulated in any of the
24 redemption funds, subject to any contract rights vested in ~~holders~~ owners of revenue
25 enterprise obligations secured thereby, it shall be paid over to the treasury.

Insert 1-9 cont.

1 SECTION 13. 18.56 (7) and (8) of the statutes are renumbered 18.561 (7) and (8).

2 SECTION 14. 18.56 (9) (intro.) of the statutes is renumbered 18.561 (9) (intro.)

3 and amended to read:

4 18.561 (9) AUTHORIZING RESOLUTION. (intro.) The commission may provide in
5 the authorizing resolution for bonds enterprise obligations or by subsequent action
6 all things necessary to carry into effect this section. Any authorizing resolution shall
7 constitute a contract with the ~~holder~~ owners of any bonds enterprise obligations
8 issued pursuant to such ~~the~~ resolution. Any authorizing resolution may contain such
9 provisions or covenants, without limiting the generality of the power to adopt the
10 resolution, as is are deemed necessary or desirable for the security of ~~bondholders~~
11 the owners of enterprise obligations or the marketability of the bonds enterprise
12 obligations, including but not limited to provisions as to:

*WFO: fix
Component*

13 SECTION 15. 18.56 (9) (a) to (j) of the statutes are renumbered 18.561 (9) (a) to
14 (j), and 18.561 (9) (i) and (j), as renumbered, are amended to read:

15 SECTION 16. 18.56 (10) of the statutes is renumbered 18.561 (10) and amended
16 to read:

*insert
19:9-14*

17 18.561 (10) SINKING FUND. The authorizing resolution may set apart bonds
18 enterprise obligations the par value of which are equal to the principal amount of any
19 secured obligation or charge subject to which a revenue producing enterprise or
20 program is to be purchased or acquired, and shall set aside in a sinking fund from
21 the income of the revenue-producing enterprise or program, a sum sufficient to
22 comply with the requirements of the instrument creating the security, or if interest.
23 If the instrument does not make any provision ~~therefor~~ for a sinking fund, the
24 resolution shall fix and determine the amount which that shall be set aside into such
25 the sinking fund from month to month for interest on the secured obligation or



Insert 1-9 cont.

1 charge, and a fixed amount or proportion not exceeding a stated sum, which shall be
2 not less than one percent of the principal, to be set aside into the fund to pay the
3 principal of the secured obligation or charge. Any balance in the fund after satisfying
4 the secured obligations or charge, shall be transferred to the redemption fund. Bonds
5 Enterprise obligations set aside for the secured obligation or charge may, from time
6 to time, be issued to an amount sufficient with the amount then in the sinking fund,
7 to pay and retire the secured obligation or charge or any portion thereof. The bonds
8 enterprise obligation may be issued in exchange for or satisfaction of the secured
9 obligation or charge, or may be sold in the manner provided in this subchapter, and
10 the proceeds applied in payment of the same at maturity or before maturity by
11 agreement with the holder owner of the secured obligation or charge. The
12 commission and the owners of any revenue-producing enterprise or program
13 acquired or purchased may, upon such terms and conditions as are satisfactory,
14 contract that bonds enterprise obligations to provide for the discharge of the secured
15 obligation or charge, or for the whole purchase price shall be deposited with a trustee
16 or depository and released from the deposit from time to time on such terms and
17 conditions as are necessary to secure the payment of the secured obligation or charge.

18 **SECTION 17.** 18.561[✓] (title)[✓] of the statutes is created to read:

19 **18.561** (title)[✓] **Enterprise obligations.**

20 **SECTION 18.** 18.561[✓] (1) of the statutes is created to read:

21 18.561 (1) PAYMENT WITH REVENUE OBLIGATIONS. The state and a contracting
22 party may provide, in any contract for purchasing or acquiring a revenue-producing
23 enterprise or program, that payment shall be made in revenue obligations.

24 **SECTION 19.** 18.561 (7) (title) of the statutes is created to read:

25 18.561 (7) (title) PAYMENT FOR SERVICES.

↓

Insert 1-9 cont.

1 **SECTION 20.** 18.561 (8) (title) of the statutes is created to read:

2 18.561 (8) (title) RATES FOR SERVICES.

3 **SECTION 21.** 18.561 (9) (k) of the statutes is created to read:

4 18.561 (9) (k) Defeasance of the obligations.

5 **SECTION 22.** 18.562 of the statutes is created to read:

6 **18.562 Special fund obligations. (1) SECURITY INTEREST IN SPECIAL FUND.**

7 There is a security interest, for the benefit of the owners of the special fund
8 obligations, in the amounts that arise after the creation of the special fund program
9 in the special fund related to the special fund obligations. For this purpose, amounts
10 in the special fund shall be accounted for on a first-in, first-out basis. No physical
11 delivery, recordation or other action is required to perfect the security interest. The
12 special fund shall remain subject to the security interest until provision for payment
13 in full of the principal and interest of the special fund obligations has been made, as
14 provided in the authorizing resolution. An owner of special fund obligations may
15 either at law or in equity protect and enforce the security interest and compel
16 performance of all duties required by this section.

17 **(2) USE OF SPECIAL FUND MONEYS.** The commission and the state agency carrying
18 out the special fund program responsibilities shall jointly determine, and the
19 commission shall fix in the authorizing resolution for the obligations, the conditions
20 under which money in the special fund shall be set aside and applied to the payment
21 of the principal and interest of the obligations, deposited in funds established under
22 the authorizing resolution or made available for other purposes.

23 **(3) REDEMPTION FUND.** The special fund revenues that are to be set aside for the
24 payment of the principal and interest of the special fund obligations shall be paid into
25 a separate fund in the treasury or in an account maintained by a trustee under sub.

↓

Insert 1-9, cont.

1 (5) (e) to be identified as “the ... redemption fund”. Each redemption fund shall be
2 expended, and all moneys from time to time on hand therein are irrevocably
3 appropriated, in sums sufficient, only for the payment of principal and interest on
4 the special fund obligations giving rise to it and premium, if any, due upon
5 redemption of any such obligations. Moneys in the redemption funds may be
6 commingled only for the purpose of investment with other public funds, but they
7 shall be invested only in investment instruments permitted in s. 25.17 (3) (dr). All
8 such investments shall be the exclusive property of the fund and all earnings on or
9 income from such investments shall be credited to the fund.

10 (4) SURPLUS. If any surplus is accumulated in any of the redemption funds,
11 subject to contract rights vested in the owners of special fund obligations ^{secured} ~~security~~
12 thereby, it shall be paid over to the treasury.

13 (5) AUTHORIZING RESOLUTION. The commission may provide in the authorizing
14 resolution for special fund obligations or by subsequent action all things necessary
15 to carry into effect this section. Any authorizing resolution shall constitute a
16 contract with the owners of any special fund obligations issued pursuant to the
17 resolution. An authorizing resolution may contain such provisions or covenants,
18 without limiting the generality of the power to adopt the resolution, as are deemed
19 necessary or desirable for the security of owners of the obligations or the
20 marketability of the obligations, including provisions as to:

- 21 (a) Employment of consultants.
22 (b) Records and accounts.
23 (c) Establishment of reserve or other funds.
24 (d) Issuance of additional obligations.
- ↓

Insert 1-9, cont:

1 (e) Deposit of the proceeds of the sale of the obligations or revenues of the
2 special fund in trust, including the appointment of depositories or trustees.

3 (f) Defeasance of the obligations.

4 SECTION 23. 18.57 (title) of the statutes is repealed and recreated to read:

5 18.57 (title) **Funds established for revenue obligations.**

6 SECTION 24. 18.57 (1) of the statutes is amended to read:

7 18.57 (1) A separate and distinct fund shall be established in the state treasury
8 or in an account maintained by a trustee under s. ~~18.56~~ 18.561 (9) (j) with respect to
9 each revenue-producing enterprise or program the income from which is to be
10 applied to the payment of any revenue enterprise obligation. A separate and distinct
11 fund shall be established in the state treasury or in an account maintained by a
12 trustee under s. 18.562 (5) (e) with respect to any special fund that is created by the
13 imposition of fees, penalties or excise taxes and is applied to the payment of special
14 fund obligations. All moneys resulting from the issuance of evidences of revenue
15 obligation shall be credited to the appropriate fund or applied for refunding or note
16 renewal purposes, except that moneys which represent premium or accrued interest
17 received on the issuance of evidences shall be credited to the appropriate redemption
18 fund.

19 SECTION 25. 18.57 (4) of the statutes is renumbered 18.57 (4) (intro.) and
20 amended to read:

21 18.57 (4) (intro.) If, after all outstanding related revenue obligations have been
22 paid or payment provided for, moneys remain in ~~any such a fund, they created under~~
23 sub. (1), all of the following shall occur:

↓

Insert 9, cont.

1 (a) If the fund created under sub. (1) is in an account maintained by a trustee
2 under s. 18.561 (9) (j) or 18.562 (5) (e), the moneys shall be paid over to the treasury
3 and the

4 (b) The fund created under sub. (1) shall be closed.

5 **SECTION 26.** 18.58 (1) of the statutes is amended to read:

6 18.58 (1) MANAGEMENT OF FUNDS AND RECORDS. All funds established under this
7 subchapter which are deposited in the state treasury shall be managed as provided
8 by law for other state funds, subject to any contract rights vested in ~~holders~~ owners
9 of evidences of revenue obligation secured by such fund. The department of
10 administration shall maintain full and correct records of each fund. The legislative
11 audit bureau shall audit each fund as of January 1 of each year reconciling all
12 transactions and showing the fair market value of all property on hand. All records
13 and audits shall be public documents. All funds established under this subchapter
14 which are deposited with a trustee under s. ~~18.56~~ 18.561 (9) (j) or 18.562 (5) (e) shall
15 be managed in accordance with resolutions authorizing the issuance of revenue
16 obligations, agreements between the commission and the trustee and any contract
17 rights vested in ~~holders of evidence~~ owners of revenue obligations secured by such
18 fund.

19 **SECTION 27.** 18.60 (1) of the statutes is amended to read:

20 18.60 (1) The commission may authorize, for any one or more of the purposes
21 described in s. 18.53 (1), the issuance of revenue-obligation refunding bonds.
22 Refunding bonds may be issued, subject to any contract rights vested in ~~holders~~
23 owners of bonds or notes being refinanced, to refinance more than one issue of bonds
24 or notes notwithstanding that the bonds or notes may have been issued at different
25 times for different purposes and may be secured by the property or income of more

↓

Insert 1-9, cont.

1 than one enterprise or program or may be public debt or building-corporation
2 indebtedness. The principal amount of refunding bonds shall not exceed the sum of:
3 the principal amount of the bonds or notes being refinanced; applicable redemption
4 premiums; unpaid interest on the bonds or notes to the date of delivery or exchange
5 of the refunding bonds; in the event the proceeds are to be deposited in trust as
6 provided in sub. (3), interest to accrue on the bonds or notes from the date of delivery
7 to the date of maturity or to the redemption date selected by the commission,
8 whichever is earlier; and the expenses incurred in the issuance of the refunding
9 bonds and the payment of the bonds or notes. A determination by the commission
10 that a refinancing is advantageous or that any of the amounts provided in the
11 preceding sentence should be included in the refinancing shall be conclusive.

12 **SECTION 28.** 18.60 (2) of the statutes is amended to read:

13 18.60 (2) If the commission determines to exchange refunding bonds, they may
14 be exchanged privately for and in payment and discharge of any of the outstanding
15 bonds or notes being refinanced. Refunding bonds may be exchanged for a like or
16 greater principal amount of the bonds or notes being exchanged therefor except that
17 the principal amount of the refunding bonds may exceed the principal amount of the
18 bonds or notes being exchanged therefor only to the extent determined by the
19 commission to be necessary or advisable to pay redemption premiums and unpaid
20 interest to the date of exchange not otherwise provided for. The holders owners of
21 the bonds or notes being refunded who elect to exchange need not pay accrued
22 interest on the refunding bonds if and to the extent that interest is accrued and
23 unpaid on the bonds or notes being refunded and to be surrendered. If any of the
24 bonds or notes to be refinanced are to be called for redemption, the commission shall
25 determine which redemption dates shall be used, if more than one date is applicable

↓

Insert 1-9, cont.

1 and shall, prior to the issuance of the refunding bonds, provide for notice of
2 redemption to be given in the manner and at the times required by the proceedings
3 authorizing the outstanding bonds or notes.

4 **SECTION 29.** 18.60 (5) of the statutes is renumbered 18.60 (5) (intro.) and
5 amended to read:

6 18.60 (5) (intro.) All of the following provisions of ~~s. 18.56~~ that are not
7 inconsistent with the express provisions of this section shall apply to refunding
8 bonds, except that the maximum permissible term shall be 50 years from the date
9 of original issue of the oldest note or bond issue being refunded.;

10 **SECTION 30.** 18.60 (5) (a) to (c) of the statutes are created to read:

11 18.60 (5) (a) Section 18.56.

12 (b) In the case of enterprise obligations, s. 18.561.

13 (c) In the case of special fund obligations, s. 18.562.

14 **SECTION 31.** 18.61 (2) of the statutes is amended to read:

15 18.61 (2) The state pledges and agrees with the ~~holders~~ owners of any evidences
16 of revenue ~~obligation~~ obligations that the state will not limit or alter its powers to
17 fulfill the terms of any agreements made with the ~~holders~~ owners or in any way
18 impair the rights and remedies of the ~~holders~~ owners until the revenue obligations,
19 together with interest including interest on any unpaid instalments of interest, and
20 all costs and expenses in connection with any action or proceeding by or on behalf of
21 the ~~holders~~ owners, are fully met and discharged. The commission may include this
22 pledge and agreement of the state in any agreement with the ~~holders~~ of notes or
23 ~~bonds and in any evidence~~ owners of revenue obligation.

24 **SECTION 32.** 18.61 (3) (a) of the statutes is amended to read:

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Insert 1-9, cont.

1 18.61 (3) (a) If the state fails to pay any revenue obligation in accordance with
 2 its terms, and default continues for a period of 30 days or if the state fails or refuses
 3 to comply with this subchapter or defaults in any agreement made with the holders
 4 owner of any issue of revenue obligations, the holders owners of 25% in aggregate
 5 principal amount of the revenue obligations of the issue then outstanding by
 6 instrument recorded in the office of the register of deeds of Dane county and approved
 7 or acknowledged in the same manner as a deed to be recorded may appoint a trustee
 8 to represent the holders owners of the ~~notes or bonds~~ revenue obligations for the
 9 purposes specifically provided in the instrument.

plain

(4)
(3)
(PH)

10 **SECTION 33.** 18.61 (3) (b) (intro.) of the statutes is amended to read:

11 18.61 (3) (b) (intro.) The trustee may, and upon written request of the holders
 12 owners of 25% in aggregate principal amount of the revenue obligations of the issue
 13 then outstanding shall, in the trustee's own name:

14 **SECTION 34.** 18.61 (3) (b) 1. of the statutes is amended to read:

15 18.61 (3) (b) 1. By action or proceeding, enforce all rights of all holders owners
 16 of the issue of revenue obligations, including the right to require the state to collect
 17 enterprise or program income adequate to carry out any agreement as to, or pledge
 18 of, such income and to require the state to carry out any other agreements with the
 19 holders owners of the revenue obligations and to perform its duties under this
 20 subchapter;

21 **SECTION 35.** 18.61 (3) (b) 3. of the statutes is amended to read:

22 18.61 (3) (b) 3. By action, require the state to account as if it were the trustee
 23 of an express trust for the holders owners of the revenue obligations;

24 **SECTION 36.** 18.61 (3) (b) 4. of the statutes is amended to read:

↓

Insert 1-9, cont.

1 18.61 (3) (b) 4. By action, enjoin any acts or things which may be unlawful or
2 in violation of the rights of the holders owners of the revenue obligations; and

3 SECTION 37. 18.61 (3) (c) of the statutes is amended to read:

4 18.61 (3) (c) The trustee shall have all of the powers necessary or appropriate
5 for the exercise of any functions specifically set forth in this subchapter or incident
6 to the general representation of the holders owners of revenue obligations in the
7 enforcement and protection of their rights.

8 SECTION 38. 18.61 (4) of the statutes is amended to read:

9 18.61 (4) Any public officer or public employe, as defined in s. 939.22 (30), and
10 the surety on the person's official bond, or any other person participating in any
11 direct or indirect impairment of any fund established under this subchapter, shall
12 be liable in any action brought by the attorney general in the name of the state, or
13 by any taxpayer of the state, or by the holder of any evidence owner of revenue
14 obligation payable in whole or in part, directly or indirectly, out of such fund, to
15 restore to the fund all diversions from the fund.

16 SECTION 39. 20.143 (3) (s) of the statutes is created to read:

17 20.143 (3) (s) *Petroleum inspection fund — revenue obligation proceeds.* As a
18 continuing appropriation, all proceeds from revenue obligations that are issued
19 under subch. II or IV of ch. 18, authorized under s. 101.143 (9m) and deposited in a
20 fund in the state treasury created under s. 18.57 (1), to provide for reserves and for
21 expenses of issuance and management of the revenue obligations, and the remainder
22 to be transferred to the petroleum inspection fund for the purposes of the petroleum
23 storage remedial action program under s. 101.143. Estimated disbursements under
24 this paragraph shall not be included in the schedule under s. 20.005.

25 SECTION 40. 20.143 (3) (t) of the statutes is created to read:

Insert 1-9, cont.

1 20.143 (3) (t) *Petroleum inspection fund — revenue obligation repayment.* From
2 the petroleum inspection fund, a sum sufficient to repay the fund in the state
3 treasury created under s. 18.57 (1) the amount needed to retire revenue obligations
4 issued under subch. II or IV of ch. 18, as authorized under s. 101.143 (9m).

5 **SECTION 41.** 20.143 (3) (u) of the statutes is created to read:

6 20.143 (3) (u) *Revenue obligation debt service — petroleum inspection fund.*
7 From the fund in the state treasury created under s. 18.57 (1), all moneys received
8 by the fund for the purpose of the retirement of revenue obligations, providing for
9 reserves and for operations relating to the management and retirement of revenue
10 obligations issued under subch. II or IV of ch. 18, as authorized under s. 101.143 (9m).
11 All moneys received by the fund are irrevocably appropriated in accordance with
12 subch. II of ch. 18 and further established in resolutions authorizing the issuance of
13 the revenue obligations and setting forth the distribution of funds to be received
14 thereafter. Estimated disbursements under this paragraph shall not be included in
15 the schedule under s. 20.005.

16 **SECTION 42.** 20.143 (3) (v) of the statutes is amended to read:

17 20.143 (3) (v) *Petroleum storage environmental remedial action; awards.*
18 Biennially, from the petroleum inspection fund, the amounts in the schedule to pay
19 awards under s. 101.143 and legal costs incurred under s. 101.143 (7m), amounts
20 to reduce principal of outstanding revenue obligations issued pursuant to s. 101.143
21 (9m) and, if the department promulgates rules under s. 101.143 (2) (i) 1., to purchase,
22 or provide funding to purchase, insurance described in s. 101.143 (2) (i) 2.

23 **SECTION 43.** 20.143 (3) (vb) of the statutes is created to read:

24 20.143 (3) (vb) *Petroleum storage environmental remedial action revenue*
25 *bonding; awards.* From the petroleum inspection fund, a sum sufficient not to exceed

d

Insert 1-9 cont.

1 the net proceeds of special fund obligations issued pursuant to s. 101.143 (9m) to pay
 2 awards under s. 101.143⁽⁴⁾ and legal costs incurred under s. 101.143 (7m). Estimated
 3 disbursements under this paragraph shall not be included in the schedule under s.
 4 20.005.

5 **SECTION 44.** 25.47 of the statutes is renumbered 25.47 (intro.) and amended
 6 to read:

7 **25.47 Petroleum inspection fund.** (intro.) There is established a separate
 8 nonlapsible trust fund designated as the petroleum inspection fund, to consist of the:

9 (1) The fees imposed under s. 168.12 (1), the

10 (2) The payments under s. 101.143 (4) (h) 1m., the

11 (3) The payments under s. 101.143 (5) (a) and the

12 (4) The net recoveries under s. 101.143 (5) (c).

13 **SECTION 45.** 25.47⁽⁵⁾ of the statutes is created to read:

14 25.47 (5) The moneys transferred from the appropriation account under s.
 15 20.143 (3) (s).

16 **SECTION 46.** 45.79 (9) (a) of the statutes is amended to read:

17 45.79 (9) (a) All moneys received from any source for repayment of loans,
 18 mortgages or mortgage loan notes funded with proceeds of revenue obligations
 19 issued under sub. (6) (c) shall be deposited into one or more separate nonlapsible
 20 trust funds in the state treasury or with a trustee as provided in s. 18.56⁽⁹⁾ 18.561⁽⁹⁾
 21 (j) or 18.562⁽⁵⁾ (e). The board may pledge revenues received by the funds to secure
 22 revenue obligations issued under sub. (6) (c) and shall have all other powers
 23 necessary and convenient to distribute the proceeds of the revenue obligations and
 24 loan repayments in accordance with subch. II of ch. 18. Unrestricted balances in the
 25 funds may be used to fund additional loans issued under sub. (6) (c) and pay the

Insert 1-9, continued

1 balances owing on loans after the assumptions of the loans or the closings of the sales
2 of residences under sub. (10) (c).

3 **SECTION 47.** 84.59^X (2) of the statutes is amended to read:

4 84.59 (2) The department may, under s. ~~18.56~~[✓] 18.561 (5) and (9) (j) or 18.562
5 (3) and (5) (e), deposit in a separate and distinct fund outside the state treasury, in
6 an account maintained by a trustee, revenues derived under s. 341.25. The revenues
7 deposited are the trustee's revenues in accordance with the agreement between this
8 state and the trustee or in accordance with the resolution pledging the revenues to
9 the repayment of revenue obligations issued under this section.

10 **SECTION 48.** 85.52^X (5) (c) of the statutes is amended to read:

11 85.52 (5) (c) The department of administration may, under s. ~~18.56~~[✓] 18.561 (5)
12 and (9) (j) or 18.562 (3) and (5) (e), deposit in a separate and distinct fund in the state
13 treasury or in an account maintained by a trustee outside the state treasury, any
14 portion of the revenues derived under s. 25.405 (2). The revenues deposited with a
15 trustee outside the state treasury are the trustee's revenues in accordance with the
16 agreement between this state and the trustee or in accordance with the resolution
17 pledging the revenues to the repayment of revenue obligations issued under this
18 subsection. *end of inset 1-9*

19 **SECTION 49.** 101.143^X (9m) of the statutes is created to read:

Insert 10-12
20 101.143 (9m) REVENUE OBLIGATIONS. (a) For purposes of subch. II of ch. 18, the[✓]
21 petroleum storage remedial action program is a special fund program, and the
22 petroleum inspection fund is a special fund. The petroleum inspection fund is a
23 segregated fund created by the imposition of fees, penalties or excise taxes. The
24 legislature finds and determines that a nexus exists between the petroleum storage
25 remedial action program and the petroleum inspection fund in that fees imposed on



Insert 10-12 cont.

1 users of petroleum are used to remedy environmental damage caused by petroleum
2 storage.

3 (b) Deposits, appropriations or transfers to the petroleum inspection fund for
4 the purposes of the petroleum storage remedial action program may be funded with
5 the proceeds of revenue obligations issued subject to and in accordance with subch.
6 II of ch. 18 and, if designated a higher education bond, in accordance with subch. IV
7 of ch. 18.

8 (e) The department shall have all other powers necessary and convenient to
9 distribute the special fund revenues and to distribute the proceeds of the revenue
10 obligations in accordance with subch. II of ch. 18 and, if designated a higher
11 education bond, in accordance with subch. IV of ch. 18.

12 (f) The department may enter into agreements with the federal government or
13 its agencies, political subdivisions of this state, individuals or private entities to
14 insure or in any other manner provide additional security for the revenue obligations
15 issued under this subsection.

16 (g) Revenue obligations may be contracted by the building commission when
17 it reasonably appears to the building commission that all obligations incurred under
18 this subsection can be fully paid on a timely basis from moneys received or
19 anticipated to be received. Revenue obligations issued under this subsection may not
20 exceed ~~\$400,000,000~~ ^{\$450,000,000} in principal amount. In addition to this limit on principal
21 amount, the building commission may contract revenue obligations under this
22 subsection as the building commission determines is desirable to fund or refund
23 outstanding revenue obligations, to pay issuance or administrative expenses, to
24 make deposits to reserve funds or to pay accrued or capitalized interest.

↓

Insert 10-12, cont.

1 (h) Unless otherwise expressly provided in resolutions authorizing the
2 issuance of revenue obligations or in other agreements with the owners of revenue
3 obligations, each issue of revenue obligations under this subsection shall be on a
4 parity with every other revenue obligation issued under this subsection and in
5 accordance with subch. II of ch. 18 and, if designated a higher education bond, in
6 accordance with subch. IV of ch. 18.

7 (i) Recognizing its moral obligation to do so, the legislature expresses its
8 expectation and aspiration that, if the legislature reduces the rate of the petroleum
9 inspection fee and if the funds in the petroleum inspection fund are insufficient to
10 pay the principal and interest on the revenue obligations issued under subch. II or
11 IV of ch. 18 pursuant to this subsection, the legislature shall make an appropriation
12 from the general fund sufficient to pay the principal and interest on the obligations.

end of insert 10-12

13 SECTION 50. 281.59 (4) (b) of the statutes is amended to read:

Insert 11-11

14 281.59 (4) (b) The department of administration may, under s. ~~18.56~~ [✓] 18.561 [✓] (5)
15 and (9) (j) or 18.562 (3) and (5) (e), deposit in a separate and distinct fund in the state
16 treasury or in an account maintained by a trustee outside the state treasury, any
17 portion of the revenues derived under s. 25.43 (1). The revenues deposited with a
18 trustee outside the state treasury are the trustee's revenues in accordance with the
19 agreement between this state and the trustee or in accordance with the resolution
20 pledging the revenues to the repayment of revenue obligations issued under this
21 subsection.

end of insert 11-11

22 (END)

Insert Anal - 2110/P2

PECFA administration and reimbursement

This bill requires the department of commerce, in consultation with the department of natural resources (DNR), to promulgate rules specifying a method for determining the risk to public health, safety and welfare and to the environment posed by discharges of petroleum products. Under the bill, to be eligible for PECFA reimbursement, the owner of a petroleum product storage tank may not begin a cleanup without the approval of the department of commerce and DNR. The department of commerce and DNR will jointly determine the appropriate date to begin a cleanup based on the determination of the risk posed by a discharge and on the availability of funds to make PECFA reimbursements. The requirement for approval to begin a cleanup does not apply to emergency cleanups authorized by DNR or to cleanups of discharges from home heating oil tanks, small farm tanks and school district heating oil tanks.

Under current law, DNR generally may order a responsible person to conduct a cleanup of a hazardous substance that has been discharged into the environment and may oversee the cleanup. However, under current law, the department of commerce may order and oversee cleanups of certain discharges from petroleum product storage tanks. The department of commerce has authority over cleanups if the site of the discharge is classified as low or medium priority based on the threat that the discharge poses to public health, safety and welfare and to the environment and if the site is not contaminated by nonpetroleum hazardous substances. Current law requires DNR and the department of commerce to enter into a memorandum of understanding that establishes procedures and standards for determining whether a site is high, medium or low priority. Under this state's groundwater law, DNR and the department of health and family services set enforcement standards which represent a concentration of a pollutant in groundwater. If an activity or facility causes the concentration of a pollutant in groundwater to reach or exceed the enforcement standard, the state agency that regulates the activity or facility must, generally, prohibit the activity or practice that uses or produces the pollutant and implement remedial action.

This bill requires the department of commerce to determine the least costly method of conducting a cleanup and achieving compliance with enforcement standards for PECFA sites that are classified as low or medium priority. The bill requires the department of commerce and DNR jointly to determine the least costly method of conducting a cleanup and achieving compliance with enforcement standards for PECFA sites that are classified as high priority. The bill limits the amount of reimbursement under PECFA to the amount necessary for the least costly method of conducting the cleanup and achieving compliance with enforcement standards. The bill requires the departments to consider whether natural attenuation can be used for each cleanup. Natural attenuation is the naturally occurring reduction in the amount and concentration of a substance in the environment.

*

to implement

This bill requires the department of commerce to conduct an annual review of ongoing PECFA cleanups at low and medium priority sites and the department of commerce and DNR to conduct an annual review of ongoing PECFA cleanups at high priority sites. As part of an annual review, the departments must determine the least costly method of completing the cleanup and achieving compliance with enforcement standards. The bill limits the amount of reimbursement under PECFA for costs incurred after the annual review to the amount necessary to complete the cleanup and achieve compliance with enforcement standards using the least costly method.

Current law authorizes the department of commerce to establish a schedule of usual and customary costs for items eligible for PECFA reimbursement. If the department of commerce establishes a usual and customary cost for an item, PECFA reimbursement for that item is limited to the usual and customary cost. This bill requires the department of commerce to establish a schedule of usual and customary costs for items that are commonly included in PECFA claims.

This bill requires the department of commerce, in consultation with ~~the~~ DNR, to promulgate rules specifying the conditions under which the two departments must issue approvals of cleanups under PECFA. The bill also requires the department of commerce, in consultation with DNR, to promulgate rules specifying information that must be submitted under PECFA, review procedures that must be followed by employees of the department of commerce and DNR and training requirements for those employees.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

(END OF INSERT)

Insert 1-9-3-1

Section #. 13.485 (2) of the statutes is amended to read:

✓
or 18.562(3)
and (5)(e)

✓
18.561

13.485 (2) The building commission may, under s. ~~18.56~~(5) and (9) (j), deposit in a separate and distinct fund, outside the state treasury, in an account maintained by a trustee, fees and charges derived from the facilities or from agreements entered into under sub. (4). The fees and charges deposited are the trustee's moneys in accordance with the agreement between this state and the trustee or in accordance with the resolution pledging the fees and charges to the repayment of revenue obligations issued under this section.

History: 1985 a. 29; 1995 a. 201; 1997 a. 35.

(END OF INSERT)

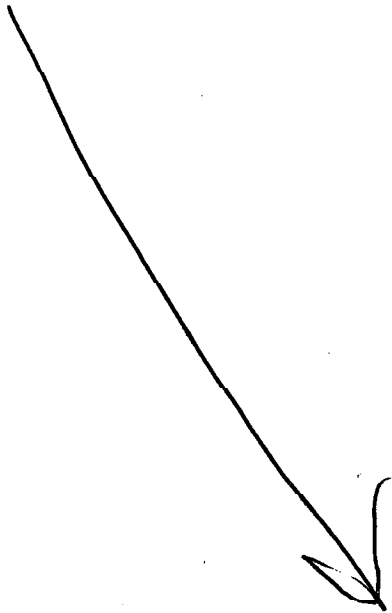
~~Section #. 18.56 (9) (i) of the statutes is amended to read:~~

18.56(9) (i) Issuance of additional bonds.

~~History: 1977 c. 29; 1979 c. 31, 155; 1989 a. 31, 46.~~

enterprise obligations

should read
18.561 (9)(i)



Section #. 18.56 (9) (j) of the statutes is amended to read:

enterprise obligations

~~18.56(9)~~ (j) Deposit of the proceeds of the sale of the ~~bonds~~ or revenues of the revenue-producing enterprise or program in trust, including the appointment of depositories or trustees.

History: 1977 c. 29; 1979 c. 34, 155; 1989 a. 31, 46.

(end insert 1-9-9-14)

Insert 2-23

#1. Annual reviews that include application of the method under sub. (2e)(a) to determine the risk posed by ^{discharges} discharges that are the subject of the remedial actions.

Insert 5-18, p. 1

Section # CR; 101.143 (3) (cw)

101.143 (3) (cw) Annual reviews. 1. The department

of commerce shall conduct the annual review

required under sub. (2) (i) 1. for a site that is

classified as low or medium priority under s. 101.144

(3m) and shall determine the least costly method

of completing remedial action at the site in order to comply with par. (c) 3. and with enforcement standards. The department

shall notify the owner or operator of its determination

of the least costly method and shall notify the owner

or operator that reimbursement for any remedial

action conducted after the date of the notice under this section is limited to the amount necessary

to implement that method.

2. The department of natural resources and the department of commerce shall conduct the annual review required

under sub. (2) (i) 1. for a site that is classified as

high priority under s. 101.144(3m) and shall jointly determine the least costly method of completing remedial action at the site in order to comply with par. (c) 3. and with enforcement standards. The departments shall notify the owner or operator of their determination of the least costly method and shall notify the owner or operator that reimbursement under this section for remedial action conducted after the date of the notice is limited to the amount necessary to implement that method.

(a) 3. In making determinations under subp. 1. and 2., ⁽³⁾ the department of natural resources and the department of commerce shall determine whether natural attenuation will achieve compliance with par. (c) 3. and with enforcement standards.

end of insert 5-18

Section #. CRJ 101.143 (4) (c) 12.

101.143 (4) (c) 12. ^{that are} Costs incurred after the date of a notice under sub. (3) (c) 1, or 2, and that exceed the amount necessary to comply with sub. (3) (c) 3. and with enforcement standards using the method specified in the notice.

create
autoreference

Insert 12-4

NEW STAFF
AUTO REF.
PAGE
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(a) The department of commerce shall submit in proposed form the rules required under section 101.143 (2) (h), (i) and (j) and (2e) (a) of the statutes, as created by this act, and the rules to implement section 101.143 (4) (cm) of the statutes, as affected by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 10th month beginning after the effective date of this paragraph.

3/3/99 Meeting w/ Pam Shannon, Kendra Bondarud,
Don Buzruki

Draft a / I

- ✓ 1. P. 24, line 6 - change "periodic" to quarterly
- ✓ 2. Page 25, line 11 - after "method" - "which shall include but not be limited to consideration of pathways for migration of petroleum contamination" Pathways - see Admin. Code 700.03(42m) - Pathways are things like pipes or utility trenches - how & where the contamination is headed
- ✓ 3. Change deductibles for underground tanks - Scenario C on attachment by Kendra
- ✓ 4. Require bidding for some sites - Require bids for any site where total costs (invest + planning + cleanup) will exceed \$50,000 but not for certain sites:
 - a. Not bid very risky sites - so as to avoid delay - Not bid sites if:
 1. there is an exceedance of an enforcement standard
 2. in developable groundwater (they need to check on this) \rightarrow see def. in com 46 - but not open here
 3. within 1000 ft. of a municipal well or 100 ft. of a domestic water supply well used for human consumption
 - b. In case of emergency?
 - c. Allow secy. of DNR to waive bidding req. - see 101.144(3) - emergency, imminent hazard
- ✓ 5. Require evaluation of reasonable & customary cost schedules - due after 12 mos. of operation. Back to current law after 2 years

Hoping to exec. week of 3/15

PECFA Deductible Alternative Calculations

Underground Eligible Costs	Current Law Deductible Amount	Current Law % of costs	Governor's Budget Deductible Amount	Governor's Budget % of costs	Scenario A		Scenario B		Scenario C	
					Increasing % Deductible Amount	Deductible as % of costs	Increasing % Deductible Amount	Deductible as % of costs	Small Ccst, Small % Deductible Amount	Deductible as % of costs
25,000	3,750.0	15.00%	10000	40.0%	2500	10.0%	1250	5.0%	500	2.0%
40,000	4,500.0	11.25%	10000	25.0%	4000	10.0%	2000	5.0%	800	2.0%
50,000	5,000.0	10.00%	10000	20.0%	5000	10.0%	3000	6.0%	2500	5.0%
50,001	5,000.1	10.00%	12500	25.0%	5000.1	10.0%	3000.1	6.0%	2500.05	5.0%
60,000	5,500.0	9.17%	12500	20.8%	6000	10.0%	4000	6.7%	3000	5.0%
70,000	6,000.0	8.57%	12500	17.5%	7000	10.0%	5000	7.1%	4000	5.7%
80,000	6,500.0	8.13%	12500	15.6%	8000	10.0%	6000	7.5%	5000	6.3%
80,001	6,500.1	8.12%	15000	18.7%	8000.15	10.0%	6000.15	7.5%	5000.1	6.3%
90,000	7,000.0	7.78%	15000	16.7%	9500	10.6%	7500	8.3%	6500	7.2%
100,000	7,500.0	7.50%	15000	15.0%	11000	11.0%	9000	9.0%	7500	7.5%
150,000	7,500.0	5.00%	15000	10.0%	18500	12.3%	16500	11.0%	7500	5.0%
200,000	7,500.0	3.75%	15000	7.5%	26000	13.0%	24000	12.0%	7500	3.8%
250,000	7,500.0	3.00%	25000	10.0%	36000	14.4%	31500	12.6%	7500	3.0%
300,000	7,500.0	2.50%	25000	8.3%	46000	15.3%	39000	13.0%	7500	2.5%
350,000	7,500.0	2.14%	35000	10.0%	56000	16.0%	46500	13.3%	7500	2.1%
400,000	7,500.0	1.88%	35000	8.8%	66000	16.5%	54000	13.5%	7500	1.9%
450,000	7,500.0	1.67%	45000	10.0%	78500	17.4%	61500	13.7%	7500	1.7%
550,000	7,500.0	1.36%	55000	10.0%	103500	18.8%	76500	13.9%	7500	1.4%
650,000	7,500.0	1.15%	65000	10.0%	128500	19.8%	91500	14.1%	7500	1.2%
750,000	7,500.0	1.00%	75000	10.0%	153500	20.5%	106500	14.2%	7500	1.0%
850,000	7,500.0	0.88%	85000	10.0%	178500	21.0%	121500	14.3%	7500	0.9%
950,000	7,500.0	0.79%	95000	10.0%	203500	21.4%	136500	14.4%	7500	0.8%
1,000,000	7,500.0	0.75%	95000	9.5%	228500	22.9%	144000	14.4%	7500	0.8%

Description of Alternatives

- Current law Governor: \$2,500 plus 5% of eligible costs, up to \$7,500
- Governor: \$10,000 plus \$2,500 if the eligible costs exceed \$50,000 plus \$2,500 if eligible costs exceed \$80,000 plus \$10,000 for each whole \$100,000 by which eligible costs exceed \$150,000.
- Scenario A: 10% of costs for first \$80,000, plus 15% of costs between \$80,000 and \$200,000, plus 20% of costs between \$200,001 and \$400,000, plus 25% of costs exceeding \$400,000
- Scenario B: 5% of costs for first \$40,000, plus 10% of costs between \$40,001 and \$80,000, plus 15% of costs in excess of \$80,000.
- Scenario C: 2% of costs for first \$40,000, plus 10% of costs between \$40,001 and \$60,000 plus 15% of costs above \$60,000, up to \$7,500

3/5 TC From Don Bezruki:

1. Drop "developable" from bidding exemption

2. Require Commerce to apply cost caps to sites that
aren't bid, allow Commerce to apply cost caps to
items it designates for bid sites